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The NORTH CAROLINA REGISTER

IN THIS ISSUE.....

CORRECTION

FINAL DECISION LETTERS

PROPOSED RULES
- Agriculture
- Human Resources
- Licensing Boards
- NRCD

FINAL RULES
- Human Resources

LIST OF RULES AFFECTED

ISSUE DATE: NOVEMBER 16, 1987

Volume 2 • Issue 8 • Pages 488-544

INFORMATION ABOUT THE NORTH CAROLINA REGISTER AND ADMINISTRATIVE COD

NORTH CAROLINA REGISTER

The *North Carolina Register* is published monthly and contains information relating to agency, executive, legislative and judicial actions required by or affecting Chapter 150B of the General Statutes. All proposed administrative rules and amendments filed under Chapter 150B must be published in the Register. The Register will typically comprise approximately one hundred pages per issue of legal text.

State law requires that a copy of each issue be provided free of charge to each county in the state and to various state officials and institutions. The *North Carolina Register* is available by yearly subscription at a cost of ninety-five dollars ($95.00) for 12 issues.

Requests for subscription to the *North Carolina Register* should be directed to the Office of Administrative Hearings, P. O. Drawer 11666, Raleigh, N. C. 27604, Attn: Subscriptions.

ADOPTION, AMENDMENT, AND REPEAL OF RULES

An agency intending to adopt, amend, or repeal a rule must first publish notice of the proposed action in the *North Carolina Register*. The notice must include a reference to the Statutory Authority for the action; the time and place of the public hearing and a statement of how public comments may be submitted to the agency either at the hearing or otherwise; the text of the proposed rule or amendment; and the proposed effective date.

The Director of the Office of Administrative Hearings has authority to publish a summary, rather than the full text, of any amendment which is considered to be too lengthy. In such case, the full text of the rule containing the proposed amendment will be available for public inspection at the Rules Division of the Office of Administrative Hearings and at the office of the promulgating agency.

Following publication of the proposal in the *North Carolina Register*, at least 60 days must elapse before the agency may take action on the proposed adoption, amendment or repeal.

When final action is taken, the promulgating agency must file any adopted or amended rule with the Office of Administrative Hearings. If it differs substantially from the proposed form published as part of the public notice, the adopted version will again be published in the *North Carolina Register*.

A rule, or amended rule, cannot become effective earlier than the first day of the second calendar month after the adoption is filed.

Proposed action on rules may be withdrawn by the promulgating agency at any time before final action is taken by the agency.

TEMPORARY RULES

Under certain conditions of an emergency nature, some agencies may issue temporary rules. A temporary rule becomes effective when adopted and remains in effect for the period specified in the rule or 120 days, whichever is less. An agency adopting a temporary rule must begin normal rule-making procedures on the permanent rule at the same time the temporary rule is adopted.

NORTH CAROLINA ADMINISTRATIVE CODE

The North Carolina Administrative Code (NCAC) is compilation and index of the administrative rules of 25 st agencies and 38 occupational licensing boards. The NC comprises approximately 15,000 letter size, single spaced pa of material of which approximately 35% is changed annua Compilation and publication of the NCAC is mandated by G 150B-63(b).

The Code is divided into Titles and Chapters. Each state age is assigned a separate title which is further broken down chapters. Title 21 is designated for occupational licensing boa

The NCAC is available in two formats.

(1) In looseleaf pages at a minimum cost of two dollars 50 cents ($2.50) for 10 pages or less, plus fifteen c ($0.15) per each additional page.

(2) On microfiche. The microfiche edition is revised se annually (March and October) and can be purchased forty dollars ($40.00) per edition. Due to the volu of the Code, the complete copy can only be purchased microfiche. The NCAC on microfiche is upda monthly by publication of a "List of Rules Affect which sets out rules filed the previous month, the ac taken, and the effective date of the change. This li published in the *North Carolina Register*.

Requests for looseleaf pages of rules or the NCAC microfiche should be directed to the Office of Administra Hearings.

NOTE

The foregoing is a generalized statement of the procedure be followed. For specific statutory language, it is suggested Articles 2 and 5 of Chapter 150B of the General Statutes examined carefully.

CITATION TO THE NORTH CAROLINA REGISTE

The *North Carolina Register* is cited by volume, issue, p number and date. **1:1 NCR 101-201, April 1, 1986** refer Volume 1, Issue 1, pages 101 through 201 of the *North Caro Register* issued on April 1, 1986.

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NORTH CAROLINA REGISTER

Office of Administrative Hearings
P. O. Drawer 11666
Raleigh, NC 27604
(919) 733 - 2678

Robert A. Melott,
Director
James R. Scarcella, Sr.
Deputy Director
Molly Mason,
Assistant Director

Staff:
Ruby Creech,
Publications Coordinator
Teresa Johnson,
Editorial Assistant
Jean Shirley,
Editorial Assistant

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NORTH CAROLINA REGISTER
Publication Deadlines and Schedules
(September 1987 - March 1988)

Issue Date	Last Day for Filing	Last Day for Electronic Filing	Earliest Date for Public Hearing & Adoption by Agency	* Earliest Effective Date
********	********	********	********	********
09/15/87	08/26/87	09/02/87	10/15/87	01/01/88
10/15/87	09/25/87	10/02/87	11/14/87	02/01/88
11/16/87	10/27/87	11/03/87	12/16/87	03/01/88
12/15/87	11/23/87	12/02/87	01/14/88	04/01/88
01/15/88	12/28/87	01/04/88	02/14/88	05/01/88
02/15/88	01/26/88	02/02/88	03/16/88	06/01/88
03/15/88	02/24/88	03/02/88	04/14/88	07/01/88

* *The "Earliest Effective Date" is computed assuming that the public hearing and adoption occur in the calendar month immediately following the "Issue Date", that the agency files the rule with The Administrative Rules Review Commission by the 20th of the same calendar month and that ARRC approves the rule at the next calendar month meeting.*

CORRECTION

THE NOTICE PUBLISHED IN THE NORTH CAROLINA REGISTER AT 2:7 NCR 442 AND 443 SHOULD READ:

Notice is hereby given in accordance with G.S. 150B-12 that The Director of the Division of Mental Health, Mental Retardation and Substance Abuse Services intends to amend regulation cited as 10 NCAC 14C .1117(b)(1).

Notice is hereby given in accordance with G.S. 150B-12 that The Commission for Mental Health, Mental Retardation and Substance Abuse Services intends to amend regulation cited as 10 NCAC 18I .0120(94).

[G.S. 120-30.9H, effective July 16, 1986, requires that all letters and other documents issued by the Attorney General of the United States in which a final decision is made concerning a "change affecting voting" under Section 5 of the Voting Rights Act of 1965 be published in the North Carolina Register.]

U.S. Department of Justice
Civil Rights Division
Washington, D.C. 20530

WBR:MAP:TGL:dvs
DJ 166-012-3
S4750-4752

Voting Section
P.O. Box 66128
Washington, D.C. 20035-6128

October 2, 1987

David A. Holec, Esq.
City Attorney
P.O. Box 1388
Lumberton, North Carolina 28358-1388

Dear Mr. Holec:

This refers to the three annexations [Ordinance Nos. 958, 959, and 960 (1987)] to the City of Lumberton in Robeson County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission on August 3, 1987.

The Attorney General does not interpose any objections to the changes in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes. See Section 51.41 of the Procedures for the Administration of Section 5 [52 Fed. Reg. 496 (1987)].

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

By:

Gerald W. Jones
Chief, Voting Section

U.S. Department of Justice
Civil Rights Division
Washington, D.C. 20530

WBR:MAP:K1F:gmh
DJ 166-012-3
S5137

Voting Section
P.O. Box 66128
Washington, D.C. 20035-6128

October 16, 1987

Michael Crowell, Esq.
Tharrington, Smith & Hargrove
P. O. Box 1151
Raleigh, North Carolina 27602

Dear Mr. Crowell:

This refers to Chapter 411, H.B. No. 864 (1987), which permits the crossing of township lines in drawing voting precincts in Pitt County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission on August 17, 1987.

The Attorney General does not interpose any objection to the change in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such change. See Section 51.41 of the Procedures for the Administration of Section 5 [52 Fed. Reg. 496 (1987)].

The provisions of this Act are viewed as enabling legislation. Therefore, any changes affecting voting (i.e., the realignment of voting precincts) adopted as a result of the provisions of this Act will be subject to the preclearance requirements of Section 5. See also Section 51.15 [52 Fed. Reg. 492 (1987)].

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

By:

Gerald W. Jones
Chief, Voting Section

U.S. Department of Justice
Civil Rights Division
Washington, D.C. 20530

WBR:SSC:TGL:dvs
DJ 166-012-3
S5465-5467
S7532

Voting Section
P.O. Box 66128
Washington, D.C. 20035-6128

October 20, 1987

Michael Crowell, Esq.
Tharrington, Smith & Hargrove
P. O. Box 1151
Raleigh, North Carolina 27602

Dear Mr. Crowell:

This refers to change in the method of election to seven single-member districts, the increase to seven county commissioners, the districting plan, and the implementation schedule for the county commission in Vance County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission on August 21, 1987.

The Attorney General does not interpose any objections to the changes in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes. See Section 51.41 of the Procedures for the Administration of Section 5 [52 Fed. Reg. 496 (1987)].

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

By:

Gerald W. Jones
Chief, Voting Section

TITLE 2 - DEPARTMENT OF AGRICULTURE

Notice is hereby given in accordance with G.S. 150B-12 that the Structural Pest Control Committee intends to amend regulations cited as 2 NCAC 34 .0601; .0603 and .0605.

The proposed effective date of this action is March 1, 1988.

The public hearing will be conducted at 1:00 p.m. on December 16, 1987 at Hall of Fame, Room 101A, Agriculture Building, 1 W. Edenton Street, Raleigh, NC.

Comment Procedures: Interested persons may present statements either orally or in writing at the public hearing or in writing prior to the hearing by mail addressed to David S. McLeod, Chairman of the Structural Pest Control Committee, P.O. Box 27647, Raleigh, North Carolina 27611.

CHAPTER 34 - STRUCTURAL PEST CONTROL DIVISION

SECTION .0600 - WOOD-DESTROYING ORGANISMS AGREEMENTS

.0601 AGREEMENTS

(a) Before any work is started, the licensee or his authorized agent shall be responsible for executing a written agreement with, and informing, in detail, the property owner or his authorized agent as to the type and quality of work that is to be performed under the agreement. ~~on any job whether it meets minimum requirements or not.~~

~~(b) A written agreement on a job which does not meet minimum requirements shall mean any written agreement, entered into by the licensee or his authorized agent, for the control or prevention of wood-destroying organisms or pests, in which treatment for the control or prevention of such organisms or pests, is not to be performed in accordance with minimum requirements as herein set forth.~~

(b) If a partial treatment is to be performed under Rule .0503, the written agreement shall state: "The treatment proposed by this contract is a partial treatment. Only those areas indicated on the attached foundation diagram will be treated. Treatment of these areas will be performed according to North Carolina minimum requirements for subterranean termite control except as specified by the attached waiver form."

Statutory Authority G.S. 106-65.29.

.0603 WAIVERS

(a) If ~~for any reason~~ there are any deviations or omissions from the minimum requirements for the control and/or prevention of wood-destroying organisms, or pests, as hereinbefore set forth, each requirement ~~or item omitted~~ shall be fully explained, in writing, prior to any work being done, on the waiver form(s) prescribed by the committee, bear the written approval of the property owner or his authorized agent, and shall be made a permanent part of the written agreement. ~~or contract. A copy of the above waiver form shall be given to the property owner or his authorized agent within 30 days from the date of the contract covering wood-destroying organisms. A duplicate copy of the waiver form shall be kept in the files of the licensee.~~

(b) In the case of a partial treatment, a waiver shall only be required if the minimum requirements are not to be followed in the treated areas indicated on the foundation diagram.

~~(b)~~ (c) Incomplete and retroactive waiver forms shall not be ~~acceptable~~ accepted unless approved by the committee or its authorized agent.

Statutory Authority G.S. 106-65.29.

.0605 CONTRACTUAL AGREEMENTS FOR WOOD-DESTROYING ORGANISMS

(a) (7) For existing structures the written agreement shall include a foundation diagram ~~or sketch~~ of the structure or structures or portions of such structure or structures inspected. The diagram shall clearly indicate and make full disclosure thereon the location of individual water sources, any visual evidence of wood-destroying organism infestation, whether it be active or inactive, and damaged timbers. If a partial treatment is to be performed, the diagram shall clearly indicate all areas of the structure to be treated.

Statutory Authority G.S. 106-65.29.

TITLE 10 - DEPARTMENT OF HUMAN RESOURCES

Notice is hereby given in accordance with G.S. 150B-12 that the Office of the Secretary intends

to adopt regulation cited as 10 NCAC 1B .0225; amend regulations cited as 10 NCAC 1B .0201 and .0202; and repeal regulations cited as 10 NCAC 1B .0206; .0208 - .0213; .0215 - .0216; .0218 - .0220; .0222 - .0224.

The proposed effective date of this action is April 1, 1988.

The public hearing will be conducted at 9:00 a.m. on December 16, 1987 at Albemarle Building, Room 420, 325 N. Salisbury Street, Raleigh, North Carolina 27611.

Comment Procedures: Interested persons may present written and/or oral comments at the public hearing. Oral presentations may not exceed ten minutes. Persons wishing to offer comments at the public hearing should contact John DeLuca at 325 N. Salisbury Street, (919) 733-6920 by December 15, 1987. The hearing record will remain open for the submission of written comments through December 16, 1987. Written comments must be sent to John DeLuca at the above address by December 16, 1987 and must state the proposed rule(s) to which they refer. A fiscal impact statement has been prepared on the proposed rules and can be requested at OLLA listed at the address above.

CHAPTER 1 - DEPARTMENTAL RULES

SUBCHAPTER 1B - PROCEDURE

SECTION .0200 - CONTESTED CASES

.0201 DEFINITIONS

The following terms shall have the following meanings unless the context of the rule requires a different interpretation:

(1) "department" means the Department of Human Resources;

(2) "hearing" means a contested case hearing as provided in G.S. 150B-2(2) and 150B-23;

~~(3) "hearing officer" means:~~

~~(a) a departmental hearing officer(s) appointed by the secretary or his/her designees; or~~

~~(b) a hearing officer appointed by the director of the OAH;~~

~~(1)~~ (3) "OAH" means the Office of Administrative Hearings;

~~(5)~~ (4) "secretary" means the Secretary of the Department of Human Resources.

Statutory Authority G.S. 143B-10; 150B-11.

.0202 REQUEST FOR DETERMINATION

(a) In accordance with G. S. 150B-2(2), any person may request a determination of his/her legal rights, privileges, or duties as they relate to laws or rules administered by the department. All requests must be in writing and contain a statement of the facts prompting the request sufficient to allow for appropriate processing by the department.

(b) Any person seeking such a determination must exhaust all informal procedures available before requesting a hearing under G.S. 150B-23.

(c) All petitions for hearings regarding matters under the control of the department shall be filed with the OAH in accordance with G.S. 150B-23 and 26 NCAC 3 .0003. In accordance with G.S. 1A-1, Rule 4 (j) 4, the petition shall be served on a registered agent for service of process for the department. A list of registered agents may be obtained from the Office of Legislative and Legal Affairs.

~~(d) To obtain a departmental hearing, the petition for hearing filed with the OAH must include a waiver of the right to a hearing conducted by the OAH. If the department initiates the contested case, the respondent may obtain a departmental hearing by filing a written waiver of the right to an OAH hearing with the OAH within 15 days after being served with the petition for hearing.~~

~~(e) Departmental hearings shall be conducted in accordance with the Rules contained in this Section unless another procedure is specified for the hearing in the following chapters.~~

Statutory Authority G.S. 143B-10; 150B-11; 150B-22; 150B-23.

.0206 NOTICE OF HEARING (REPEALED)

Statutory Authority G.S. 143B-10; 150B-11.

.0208 INTERVENTION (REPEALED)

Statutory Authority G.S. 143B-10 (j) (2); 150B-11.

.0209 WRITTEN ANSWER (REPEALED)

Statutory Authority G.S. 143B-10; 150B-11; 150B-25.

.0210 VENUE (REPEALED)

Statutory Authority G.S. 143B-10 (j) (2); 150B-11; 150B-24.

.0211 DISCOVERY (REPEALED)

Statutory Authority G.S. 143B-10 (j) (2); 150B-11; 150B-28.

.0212 PRE-HEARING CONFERENCE (REPEALED)

Statutory Authority G.S. 143B-10 (j) (3); 150B-11; 150B-33.

.0213 SUBPOENAS (REPEALED)

Statutory Authority G.S. 143B-10 (j) (2); 150B-11; 150B-27; 150B-33(2).

.0215 STIPULATIONS (REPEALED)

Statutory Authority G.S. 143B-10 (j) (3); 150B-11; 150B-31.

.0216 DISQUALIFICATION OF HEARING OFFICER (REPEALED)

Statutory Authority G.S. 143B-10 (j) (3); 150B-32.

.0218 OATH (REPEALED)

Statutory Authority G.S. 143B-10 (j) (3).

.0219 CONDUCT OF HEARING (REPEALED)

Statutory Authority G.S. 143B-10 (j) (1); 150B-11; 150B-33; 150B-37.

.0220 DECISION (REPEALED)

Statutory Authority G.S. 143B-10 (j) (3); 150B-11; 150B-34; 150B-36.

.0222 TRANSCRIPTS (REPEALED)

Statutory Authority G.S. 143B-10 (j) (3); 150B-11; 150B-37.

.0223 CONSOLIDATION (REPEALED)

Statutory Authority G.S. 143B-10(j); 150B-11; 150B-26.

.0224 FAILURE TO APPEAR (REPEALED)

Statutory Authority G.S. 143B-10(j); 150B-11; 150B-25(a).

.0225 EXCEPTIONS TO RECOMMENDED DECISION

(a) Upon receipt of the official record as defined in G.S. 150B-37, the secretary or designee shall notify the parties to the contested case of receipt of the record and provide them an opportunity to file exceptions to the decision recommended by the administrative law judge and to present written arguments in accordance with G.S. 150B-36.

(b) The time provided to submit arguments and exceptions shall be specified in the notice and shall be at least 15 days from the date the notice was mailed.

(c) No new evidence may be included in the exceptions and arguments presented for consideration by the final decision-maker, provided that any party may request that the final decision-maker remand the matter to the administrative law judge for the taking of additional evidence for the reasons set forth in G.S. 150B-49.

(d) If the final agency decision-maker determines that the official record of a contested case does not contain sufficient information on which to base the final agency decision, the case may be remanded to the hearing officer for the curing of the insufficiency. The remand order shall contain specific instructions as to how the insufficiency in the official record may be cured.

Statutory Authority G.S. 143B-10; 150B-11; 150B-36; 150B-37.

* * * * * * * * * * * * * * * * *

Notice is hereby given in accordance with G.S. 150B-12 that the Division of Health Services intends to adopt regulations cited as 10 NCAC 7A .0106 - .0109; .0209 - .0212; 10 NCAC 9D .0104; amend regulations cited as 10 NCAC 7A .0401; .0405 - .0406; .0503; 10 NCAC 7D .0206; 10 NCAC 7E .0401 - .0403; 10 NCAC 10A .0201; .0302; .0444; .0502; .1004; .1301; .2202; and repeal regulations cited as 10 NCAC 7A .0101 - .0105; .0201 - .0206; .0208; .0502.

The proposed effective date of this action is March 1, 1988.

The public hearing will be conducted at 9:00 a.m. on December 16, 1987 at Highway Building, Auditorium (First Floor), 1 South Wilmington Street, Raleigh, North Carolina.

Comment Procedures: Any person may request information or copies of the proposed rules by writing or calling John P. Barkley, Agency Legal Specialist, Division of Health

Services, P.O. Box 2091, Raleigh, North Carolina 27602-2091, (919) 733-3134. Written comments on these subjects may be sent to Mr. Barkley at the above address. Written and oral (for no more than ten minutes) comments on these subjects may be presented at the hearing. Notice should be given to Mr. Barkley at least three days prior to the hearing if you desire to speak.

CHAPTER 7 - HEALTH: EPIDEMIOLOGY

SUBCHAPTER 7A - ACUTE COMMUNICABLE DISEASE CONTROL

SECTION .0100 - REPORTING OF COMMUNICABLE DISEASES

.0101 REPORTABLE DISEASES (REPEALED)
.0102 METHOD OF REPORTING (REPEALED)
.0103 PHYSICIANS TO REPORT (REPEALED)
.0104 OTHER PERSONS TO REPORT (REPEALED)
.0105 FORWARDING REPORTS (REPEALED)

Statutory Authority G.S. 130A-134; 130A-135; 130A-138; 130A-141; 130A-147.

.0106 REPORTABLE DISEASES AND CONDITIONS

The following named diseases and conditions are declared to be dangerous to the public health and are hereby made reportable within the time period specified after the disease or condition is reasonably suspected to exist:

(1) acquired immune deficiency syndrome (AIDS) - 7 days;
(2) amebiasis - 7 days;
(3) anthrax - 24 hours;
(4) blastomycosis - 7 days;
(5) botulism - 24 hours;
(6) brucellosis - 7 days;
(7) campylobacter infection - 24 hours;
(8) chancroid - 24 hours;
(9) chlamydial infection (laboratory confirmed) - 7 days;
(10) cholera - 24 hours;
(11) dengue - 7 days;
(12) diptheria - 24 hours;
(13) encephalitis - 7 days;
(14) foodborne disease, including but not limited to Clostridium perfringens, staphylococcal, and Bacillus cereus - 24 hours;
(15) gonorrhea - 24 hours;
(16) granuloma inguinale - 24 hours;
(17) Hemophilus influenzae, invasive disease - 24 hours;
(18) hepatitis A - 24 hours;
(19) hepatitis B - 24 hours;
(20) hepatitis B carriage - 7 days;
(21) hepatitis non-A, non-B - 7 days;
(22) legionellosis - 7 days;
(23) leprosy - 7 days;
(24) leptospirosis - 7 days;
(25) Lyme disease - 7 days;
(26) lymphogranuloma venereum - 7 days;
(27) malaria - 7 days;
(28) measles (rubeola) - 24 hours;
(29) meningitis, pneumococcal - 7 days;
(30) meningitis, viral (aseptic) - 7 days;
(31) meningococcal disease - 24 hours;
(32) mucocutaneous lymph node syndrome (Kawasaki syndrome) - 7 days;
(33) mumps - 7 days;
(34) nongonococcal urethritis - 7 days;
(35) plague - 24 hours;
(36) paralytic poliomyelitis - 24 hours;
(37) psittacosis - 7 days;
(38) Q fever - 7 days;
(39) rabies, human - 24 hours;
(40) Reye's syndrome - 7 days;
(41) Rocky Mountain spotted fever - 7 days;
(42) rubella - 24 hours;
(43) rubella congenital syndrome - 7 days;
(44) salmonellosis - 24 hours;
(45) shigellosis - 24 hours;
(46) syphilis - 24 hours;
(47) tetanus - 7 days;
(48) toxic shock syndrome - 7 days;
(49) trichinosis - 7 days;
(50) tuberculosis - 24 hours;
(51) tularemia - 24 hours;
(52) typhoid - 24 hours;
(53) typhoid carriage (Salmonella typhi) - 7 days;
(54) typhus, epidemic (louse-borne) - 7 days;
(55) whooping cough - 24 hours;
(56) yellow fever - 7 days.

Statutory Authority G.S. 130A-134.

.0107 METHOD OF REPORTING

(a) When a report of a disease or condition is required to be made pursuant to G.S. 130A-135 through 139 and 10 NCAC 7A .0106, the report shall be made to the local health director as follows:

(1) For diseases and conditions required to be reported within 24 hours, the initial report shall be made by telephone, and the report required by Paragraph (2) shall be made within seven days.
(2) In addition to the requirements of Paragraph (1), the report shall be made on the communicable disease report card provided by the Division of Health Services and shall include the name and

address of the patient, the name and address of any minor's parent or guardian, and all other pertinent epidemiologic information requested on the form.

(3) In addition to the requirements of Paragraph (1) and (2), the epidemiologic information requested on a surveillance form provided by the Division of Health Services shall be completed and submitted for the reportable diseases and conditions identified in 10 NCAC 7A .0106 (1), (6), (17), (18), (19), (20), (21), (22), (23), (24), (25), (27), (29), (31), (32), (36), (37), (40), (41), (43), (47), (48), (49), (50), (51), (52), (55).

(4) Communicable disease report cards and surveillance forms are available from the morbidity unit, N.C. Division of Health Services, P.O. Box 2091, Raleigh, N.C. 27602, and from local health departments.

(b) Notwithstanding the time frames established in Rule .0106, a restaurant or other food or drink establishment is required to report all outbreaks or suspected outbreaks of foodborne illness in its customers or employees and all suspected cases of foodborne disease or foodborne condition in food-handlers at the establishment by telephone to the local health department within 24 hours in accordance with Paragraph (a) (1). However, the establishment is not required to submit a report card or surveillance form pursuant to Paragraphs (a) (2) and (a) (3).

(c) For the purposes of reporting by restaurants and other food or drink establishments pursuant to G.S. 130A-138, the diseases and conditions to be reported shall be those listed in 10 NCAC 7A .0106 (5), (7), (10), (14), (18), (44), (45), (49), (52), and (53).

Statutory Authority G.S. 130A-135 through 130A-139; 130A-141.

.0108 DUTIES LOCAL HEALTH DIRECTOR: REPORT COMMUNICABLE DISEASES

(a) Upon receipt of a report of a communicable disease or condition pursuant to 10 NCAC 7A .0106, the local health director shall:

(1) immediately investigate the circumstances surrounding the occurrence of the disease or condition to determine the authenticity of the report and the identity of all persons for whom control measures are required. This investigation shall include the collection and submission for laboratory examination of specimens necessary to assist in the diagnosis and indicate the duration of control measures;

(2) determine what control measures have been given and ensure that proper control measures as provided in 10 NCAC 7A .0209 have been given and are being complied with;

(3) forward the report as follows:

(A) The local health director shall forward all reports of chancroid, chlamydial infection, gonorrhea, granuloma inguinale, lymphogranuloma venereum, nongonococcal urethritis, and syphilis as specified in 10 NCAC 7E .0401.

(B) Except as provided in (3) (A), a local health director who receives a report pursuant to 10 NCAC 7A .0107 regarding a person residing in that jurisdiction shall forward the authenticated report to the Division of Health Services within seven days.

(C) Except as provided in (3) (A), a local health director who receives a report pursuant to 10 NCAC 7A .0107 regarding a person who resides in another jurisdiction in North Carolina shall forward the report to the local health director of that jurisdiction within 24 hours. A duplicate report card marked "copy" shall be forwarded to the Division of Health Services within seven days.

(D) A local health director who receives a report pursuant to 10 NCAC 7A .0107 regarding a person who resided outside of North Carolina at the time of onset of the illness shall forward the report to the Division of Health Services within 24 hours.

(b) Whenever a cluster of cases of a reportable disease or condition occurs, the local health director shall investigate the cluster to determine if an outbreak exists. If an outbreak exists, the local health director shall submit to the Division of Health Services within 30 days a written report of the investigation, its findings, and the actions taken to control the outbreak and prevent a recurrence.

(c) Whenever a cluster of cases of a disease or condition occurs which is not required to be reported by 10 NCAC 7A .0106 but which represents a significant threat to the public health, the local health director shall investigate the cluster to determine if an outbreak exists. If an outbreak exists, the local health

director shall give appropriate control measures consistent with 10 NCAC 7A .0200, and inform the Division of Health Services of the circumstances of the outbreak within seven days.

Statutory Authority G.S. 130A-141; -144.

.0109 RELEASE OF COMMUNICABLE DISEASE RECORDS FOR RESEARCH PURPOSES

(a) A person may request, for bona fide research purposes, the release of records which pertain to a communicable disease or communicable condition and which identify individuals. The request shall be in writing and shall contain the following information:

(1) Name of organization requesting the data;
(2) Names of principal investigators;
(3) Name of project;
(4) Purpose of project;
(5) Description of the proposed use of the data, including protocols for contacting patients, relatives, and service providers;
(6) Descriptions of measures to protect the security of the data;
(7) An assurance that the data will not be used for purposes other than those described in the protocol;
(8) An assurance that the data will be properly disposed of upon completion of the project; and
(9) An assurance that the results of the project will be provided to the custodian of the records.

(b) The request for release of the records shall be granted or denied in writing based upon the following considerations:

(1) Whether the objectives of the project require patient indentifying information;
(2) Whether the objective of the project can be reached with the use of the data;
(3) Whether the project has a reasonable chance of answering a legitimate research question;
(4) Whether the project might jeopardize the ability of the Epidemiology Section to obtain reports and information regarding communicable diseases and communicable conditions;
(5) Whether the patient's right to privacy would be adequately protected.

Statutory Authority G.S. 130A-143 (9).

SECTION .0200 - CONTROL MEASURES FOR COMMUNICABLE DISEASES

.0201 SOURCE OF CONTROL MEASURES (REPEALED)
.0202 DUTIES OF ATTENDING PHYSICIANS (REPEALED)
.0203 DUTIES OF OTHER PERSONS (REPEALED)
.0204 DUTIES OF LOCAL HEALTH DIRECTOR (REPEALED)
.0205 DUTIES OF PATIENTS (REPEALED)
.0206 TRAVEL AND TRANSPORTATION OF PATIENTS (REPEALED)

Statutory Authority G.S. 130A-144.

.0208 HANDLING AND TRANSPORTATION OF BODIES (REPEALED)

Statutory Authority G.S. 130A-144.

.0209 CONTROL MEASURES

(a) Except as provided in Paragraph (d), the specific control measures for each disease and condition shall be those specified by the American Public Health Association in its publication, Control of Communicable Disease in Man. Control of Communicable Disease in Man is hereby adopted by reference in accordance with G.S. 150B-14(c). Copies of this publication are available from the American Public Health Association, Department JE, 1015 18th Street, N.W., Washington, DC 20036. A copy is available for inspection in the Communicable Disease Control Branch, Cooper Memorial Health Building, 225 N. McDowell Street, Raleigh, North Carolina 27602.

(b) In interpreting and implementing the specific control measures adopted in (a), and in devising control measures for communicable diseases and conditions for which a specific control measure is not provided by this Rule, the following principles shall be used:

(1) control measures shall be those which can reasonable be expected to decrease the risk of transmission;
(2) for diseases or conditions transmitted by the airborne route, the control measures shall require physical isolation for the duration of infectivity;
(3) for diseases or conditions transmitted by the fecal-oral route, the control measures shall require exclusions from situations in which transmission can be reasonably expected to occur, such as work as a paid or voluntary food handler or attendance or work in a day care center for the duration of infectivity;

(4) for diseases or conditions transmitted by sexual or the blood-borne route, control measures shall require prohibition of donation of blood, tissue, organs, or semen, needle-sharing, and sexual contact in a manner likely to result in transmission for the duration of infectivity.

(c) Persons with congenital rubella syndrome, tuberculosis, and carriers of Salmonella typhi and hepatitis B who change residence to a different local health department jurisdiction shall notify the local health director in both jurisdictions.

(d) The following are the control measures for the Acquired Immune Deficiency Syndrome (AIDS) and Human Immunodeficiency Virus (HIV) infection:

(1) Infected persons shall:

(A) refrain from sexual intercourse unless condoms are used; exercise caution when using condoms due to possible condom failure;

(B) never share needles or syringes;

(C) not donate or sell blood, plasma, platelets, other blood products, semen, tissues, organs, or breast milk;

(D) have a skin test for tuberculosis;

(E) not breastfeed;

(F) notify future sex partners of the infection;

(G) if the time of initial infection is known, prepare, on a form provided by the division, a list of previous sex and needle partners who would have been exposed; if the date of initial infection is unknown, prepare, on a form provided by the division, a list of sex and needle partners for the previous year; the infected person shall place the list in an envelope, seal the envelope and give it to the attending physician;

(2) The attending physician shall:

(A) give the control measures in (d) (1) to infected patients, in accordance with 10 NCAC 7A .0210;

(B) obtain the list required by (d) (1) (G) from the patient; the physician shall sign the envelope and forward it to the Division of Health Services; the Division of Health Services shall retain the list until the division has undertaken to notify the partners; the patient may notify the partners prior to the division undertaking to do so;

(C) advise infected persons concerning proper clean-up of blood and other body fluids;

(D) advise infected persons concerning the risk of perinatal transmission.

(3) The attending physician of a child who is infected with HIV and who may pose a significant threat for transmission in the school or day care setting because of open, oozing wounds which cannot be adequately covered, incontinence of urine or feces, or behavioral abnormalities such as biting shall notify the local health director. The local health director shall consult with the attending physician, investigate the circumstances, and determine if such a risk exists. The local health director may consult with an interdisciplinary committee, which may include appropriate school personnel and medical and epidemiologic experts, to assist in the investigation and determination of risk. If a significant risk of transmission exists, the local health director shall notify the parents of the need for an alternate child care or educational setting and require that the school principal be notified accordingly. When an alternate educational setting is required, the local health director shall determine if school personnel directly involved with the child need to be notified of the HIV infection in order to prevent transmission. The local health director shall determine which school personnel shall be notified and shall ensure that these persons are instructed regarding the necessity for protecting confidentiality.

(4) When health care workers or other persons have had a significant nonsexual exposure to blood or body fluids, the following shall apply:

(A) When the source is known to be HIV-infected, the exposed person shall be notified of the source's HIV infection, given control measures and offered testing for HIV infection as soon as possible after exposure and at reasonable intervals up to one year to determine whether transmission occurred or not. All persons so notified shall be instructed regarding the necessity for protecting confidentiality.

(B) When the source is known and is in a high prevalence group, but HIV-infection status is unknown, the exposure shall be discussed with the source and permission requested for testing for HIV infection. If permission is granted and the test is positive for

HIV infection, the exposed person shall be notified as provided in (4) (A). Control measures shall be given to the exposed person and testing shall be offered as provided in (4) (A).

(C) When the source is unknown or when the infection status of a known source has not been determined, the exposed person shall be given control measures and offered testing as in (4) (A).

(5) The attending physician shall notify the local health director when the physician, in good faith, has reasonable cause to suspect a patient infected with HIV is not following or cannot follow control measures and is thereby causing a significant risk of transmission.

(6) When the local health director is notified pursuant to Paragraph (5) of a person who is mentally ill or mentally retarded, the local health director shall confer with the attending mental health physician or appropriate mental health authority to develop an appropriate plan to prevent transmission.

(7) The Director of Health Services of the North Carolina Department of Corrections shall be notified by the attending physician of an HIV-infected person confined in a state prison. If the Director of Health Services determines that a confined HIV-infected person is not following or cannot follow prescribed control measures, thereby presenting a significant risk of HIV transmission, the director shall develop and implement jointly with the appropriate prison facility administrator a plan to prevent transmission.

(8) The local health director shall ensure that the health plan for local jails include education of jail staff and prisoners about HIV, how it is transmitted, and how to avoid acquiring or transmitting this infection.

(9) Health care workers, including emergency responders, shall follow blood and body fluid precautions with all patients.

(10) These control measures do not require restrictions in the workplace of persons with HIV infection except that health care workers with HIV infection who have secondary infections or open skin lesions which would place patients at risk shall not provide direct patient care.

(11) All equipment used to puncture human skin (in medical or other settings) must be disposed of in accordance with G.S. 90-113.4A after use or sterilized prior to reuse.

(12) Local health departments that provide testing for HIV infection shall offer anonymous testing with individual pre- and post-test counseling. Counseling shall include risk assessment, risk reduction guidelines, appropriate test result interpretation, and, when the person tested is determined to be infected with HIV, control measures.

(e) Notwithstanding the provisions of 10 NCAC 7A .0209 (d), when a person with HIV infection is enrolled in a study of the efficacy of alternative methods of notifying past sexual and needle partners, such notification shall be made in accordance with the study protocol if:

(1) the study protocol is approved by the State Health Director; and

(2) the person with HIV infection fully participates in and completes the study.

Statutory Authority G.S. 130A-144.

.0210 DUTIES OF ATTENDING PHYSICIANS

Immediately upon making a diagnosis of or reasonably suspecting a communicable disease or communicable condition for which control measures are provided in Rule .0209, the attending physician shall instruct the patient and any other person specified in those control measures to carry out those control measures, shall give sufficiently detailed instructions for proper compliance, or shall request the local health director to give such instruction. When making the initial telephone report for diseases and conditions required to be reported within 24 hours, the physician shall inform the local health director of the control measures given.

Statutory Authority G.S. 130A-144.

.0211 DUTIES OF OTHER PERSONS

(a) The local health director may reveal the identity and diagnosis of a person with a reportable communicable disease or communicable condition or other communicable disease or communicable condition which represents a significant threat to the public health to those persons specified in Paragraph (b) when disclosure is necessary to prevent transmission in the facility or establishment for which they are responsible. The local health director shall ensure that all per-

sons so notified are instructed regarding the necessity for protecting confidentiality.

(b) The following persons shall require that any person about whom they are notified pursuant to Paragraph (a) comply with control measures given by the local health director to prevent transmission in the facility or establishment:

(1) the principal of any private or public school;
(2) employers;
(3) superintendents or directors of all public or private institutions, hospitals, or jails; and
(4) operators of a child day care center.

(c) The provisions of Paragraphs (a) and (b) shall not apply with regard to gonorrhea, syphilis, chancroid, granuloma inguinale, lymphogranuloma venereum, chlamydia, nongonococcal urethritis, AIDS, and HIV infection. However, persons may be notified with regard to these diseases and conditions in accordance with 10 NCAC 7A .0209.

Statutory Authority G.S. 130A-143, -144.

.0212 HANDLING AND TRANSPORTATION OF BODIES

(a) It shall be the duty of the physician attending any fatal case of smallpox, plague, AIDS, hepatitis B, rabies, or Jakob-Creutzfeldt disease to provide written notification to all individuals handling such body of the proper precautions to prevent infection resulting from handling of the body. These precautions are noted in (b) and (c) below.

(b) The body of a person who died from smallpox or plague shall not be embalmed. The body shall be enclosed in a strong, tightly sealed outer case which will prevent leakage or escape of odors as soon as possible after death and before the body is removed from the hospital room, home, building, or other premises where the death occurred. This case shall not be reopened except with the consent of the local health director.

(c) Persons handling bodies of persons who died with AIDS, hepatitis B, Jakob-Cruetzfeldt disease, or rabies shall be provided written notification to observe blood and body fluid precautions.

Statutory Authority G.S. 130A-144, -146.

SECTION .0400 - IMMUNIZATION

.0401 DOSAGE AND AGE REQUIREMENTS FOR IMMUNIZATION

(a) Every ~~child~~ individual in North Carolina required to be immunized pursuant to G.S. 130A-152 through 130A-157 shall be immunized against the following diseases by receiving the specified minimum doses of vaccines by the specified ages:

(1) diphtheria, tetanus, and whooping cough -- five doses: three doses by age one year and two booster doses, one in the second year of life and the second on or after the fourth birthday and before enrolling in school (K-1) for the first time;
(2) oral poliomyelitis vaccine--three doses of trivalent type by age two years and a booster dose of trivalent type on or after the fourth birthday and before enrolling in school (K-1) for the first time; or one dose of each of the three monovalent types by age two years and a dose of trivalent type after the fourth birthday and before enrolling in school (K-1) for the first time;
(3) measles (rubeola) vaccine -- one dose of live, attenuated vaccine by age two years;
(4) rubella vaccine -- one dose of live, attenuated vaccine by age two years;
(5) mumps vaccine--one dose of live attenuated vaccine by age two years.

(b) Notwithstanding the requirements of Paragraph (a) of this Regulation:

(1) ~~A child~~ An individual who has attained his or her seventh birthday without having been immunized against whooping cough shall not be required to be immunized with a vaccine preparation containing whooping cough antigen;
(2) ~~A child~~ An individual who has been documented by serologic testing to have a protective antibody titer against rubella shall not be required to receive rubella vaccine;
(3) ~~A child~~ An individual who has been diagnosed by a physician licensed to practice medicine as having measles (rubeola) disease shall not be required to receive measles vaccine;
(4) An individual attending school who has attained his or her 18th birthday shall not be required to receive oral polio vaccine; ~~and~~
(5) ~~An individual attending school who has attained his or her 30th birthday shall not be required to receive measles or rubella vaccine.~~ An individual born prior to 1957 shall not be required to

receive measles vaccine. An individual who has attained his or her fiftieth birthday shall not be required to receive rubella vaccine. An individual who entered a college or university after his or her thirtieth birthday and before February 1, 1988 shall not be required to meet the requirement for rubella vaccine.

(6) The requirements for mumps vaccine, and for booster doses of diphtheria, tetanus, and whooping cough vaccine and oral poliomyelitis vaccine, shall not apply to ~~children~~ individuals who enrolled for the first time in the first grade before July 1, 1987. ~~Children who receive the first booster dose of diphtheria, tetanus, and whooping cough vaccine on or after the fourth birthday shall not be required to have a second booster dose.~~

(7) Individuals who receive the first booster dose of diphtheria, tetanus, and whooping cough vaccine on or after the fourth birthday shall not be required to have a second booster dose. Individuals who receive the third dose of oral poliomyelitis vaccine on or after the fourth birthday shall not be required to receive a fourth dose.

(8) Individuals attending a college or university shall be required to have only two doses of diphtheria-tetanus toxoid of which one must have been within the last ten years.

Statutory Authority G.S. 130A-152(c), -155.1.

.0405 MEDICAL EXEMPTIONS FROM IMMUNIZATION

~~A physician licensed to practice medicine in the state may exempt a child from any or all requirements of 10 NCAC 7A .0401 if, on the basis of sound medical judgment, immunization is or may be detrimental to the child's health. In the event of such an exemption, the physician shall state in writing~~ Certification of a medical exemption by a physician pursuant to G.S. 130A-156 shall be in writing and shall state the basis of the exemption, the specific vaccine or vaccines the ~~child~~ individual should not receive, and the length of time the exemption will apply for the ~~child~~ individual.

Statutory Authority G.S. 130A-152(c), -156.

.0406 EXEMPTION FOR CLINICAL STUDIES

~~A child~~ An individual enrolled in a clinical trial of the efficacy of a new vaccine preparation or dosage schedule shall be exempted from those requirements of 10 NCAC 7A .0401 and .0402 which conflict with the trial protocol. This exemption shall only apply to ~~children~~ individuals who:

(1) participate in a clinical trial whose protocol is approved by the State Health Director, and

(2) fully participate in and complete the clinical trial.

Statutory Authority G.S. 130A-152(c).

SECTION .0500 - PURCHASE AND DISTRIBUTION OF VACCINE

.0502 DISTRIBUTION OF VACCINE (REPEALED)

Authority S.L. 1986, c. 1008, s. 2.

.0503 VACCINE FOR MEDICALLY INDIGENT PATIENTS

(b) Private physicians and health care providers shall be eligible to receive free vaccines from the department only if they ~~annually~~ sign an agreement with a local health department serving their practice area. This agreement will be prepared by the Immunization Program and will require the physicians and health care providers to administer such vaccines only to eligible patients, to submit monthly vaccine reports on a form prepared by the Immunization Program by the fifth day of each month, to report adverse vaccine reactions through the Federal Monitoring System for Adverse Events Following Immunization (MSAEFI), to obtain a signed Important Information Statement for each dose of vaccine administered and to retain the signed portion for a period of ten years following the end of the calendar year in which the form was signed, or for ten years following the recipient's age of majority, whichever is longer, and upon request, furnish copies of the signed portion to the above health department or the Centers for Disease Control, Department of Health and Human Services, to keep a record of the vaccine manufacturer, lot number, and date of administration for each dose of vaccine administered, to allow periodic inspection of their vaccine supplies and records by the Immunization Program, and to comply with the rules of this Section.

Authority S.L. 1986, C. 1008, s. 2; G.S. 130A-152.

SUBCHAPTER 7D - TUBERCULOSIS CONTROL

SECTION .0200 - REPORTING OF TUBERCULOSIS CASES

.0206 LABORATORY REPORTS

(a) North Carolina laboratories shall report positive tuberculosis test information as required by G.S. 130A-139 within seven days after recognition. These reports shall be made on the Laboratory Report of Positive AFB (Smear) or Mycobacterium Tuberculosis Culture Form. This form is available from and must be submitted to the head, Tuberculosis Control Branch, P.O. Box 2091, Raleigh, N.C. 27602.

Statutory Authority G.S. 130A-139, -141.

SUBCHAPTER 7E - VENEREAL DISEASE CONTROL

SECTION .0400 - REPORTING

.0401 CASE REPORTS

(a) The local health department shall promptly report all cases of venereal disease in accordance with this Section.

(b) Case reports of early syphilis (primary, secondary, and early latent under one year's duration) shall be reported by telephone to the ~~V.D.~~ S.T.D. branch regional office. The ~~V.D.~~ S.T.D. branch regional supervisor shall complete and forward the communicable disease report card, DHS Form No. 2124 ~~(rev. 11/79)~~ to the Raleigh office.

(c) Case reports of latent and late syphilis shall be forwarded to the ~~V.D.~~ S.T.D. branch regional office on a weekly basis by means of the communicable disease report card, DHS Form No. 2124. ~~(rev. 11/79).~~

(d) Case reports for publicly treated cases of gonorrhea, nongonococcal urethritis and laboratory confirmed chlamydial infection ~~cases~~ shall be made on DHS Form No. 1508 and forwarded to the ~~V.D.~~ S.T.D. branch regional office at least weekly. Privately treated cases shall be reported by means of the communicable disease report card, DHS Form 2124.

~~(e) Case reports for privately treated gonorrhea cases shall be made on DHS Form No. 2124 (rev. 11/79), and shall be mailed weekly to the V.D. branch regional office.~~

~~(f)~~ (e) Reports for ~~nonspecific urethritis~~ publicly or privately treated chancroid, granuloma inguinale, and lymphogranuloma venereum cases shall be made on DHS Form No. 2124 (rev. 11/79), and mailed weekly to the ~~V.D.~~ S.T.D. branch regional office.

Statutory Authority G.S. 130A-141, -160.

.0402 PRIVATE LABORATORY REPORT

(a) DHS Form No. 1393 (Laboratory Report of Reactive Tests for Syphilis) shall be submitted on the first and fifteenth of each month to the local health department by all laboratories in North Carolina performing serologic or other tests for syphilis. The local health department shall immediately notify the ~~V.D.~~ S.T.D. branch regional office of the following priority reactors so that epidemiologic follow-up can begin:

(1) All prenatal serologies regardless of age, titer, or previous record of treatment;

(2) All reactive serologies on persons twenty-five years of age and under and with no record of previous treatment;

(3) All reactive serologies of 1:8 dilutions or greater on persons twenty-five to fifty years of age and no record of previous treatment;

(4) All reactive serologies with no age stated.

(b) It is the responsibility of local health departments to follow all persons with reactive serologies not included in (a) of this Rule and to report the results to the ~~V.D.~~ S.T.D. branch regional office.

(c) All positive darkfield examinations for syphilis shall be reported immediately by telephone to the Division of Health Services.

(d) Reports of urethral smears for Gram-negative intracellular diplococci or any culture positive for Neisseria gonorrhoeae shall be submitted to the division on the first and fifteenth of each month and include the following information:

(1) Patient's name, age, race, and sex.

(2) Submitting physician's name, address, telephone number and the date the specimen was collected. Computer printouts containing the above information are acceptable.

Statutory Authority G.S. 130A-139, -141, -160.

.0403 SCREENING REPORT

Local health departments that participate in the gonorrhea culture screening program shall submit DHS Form No. 2572 (rev. 3/79) to the ~~V.D.~~ S.T.D. branch regional office.

Statutory Authority G.S. 130A-160.

CHAPTER 9 - HEALTH: LABORATORY

SUBCHAPTER 9D - CERTIFICATION AND IMPROVEMENT

SECTION .0100 - LABORATORY CERTIFICATION

.0104 CERTIFICATION FOR LABORATORIES CONDUCTING HIV TESTING

(a) Laboratories conducting HIV serologic testing shall be certified in accordance with this Rule. The requirements for certification are as follows:

(1) All laboratories, except the State Public Health Laboratory, shall be licensed under the Clinical Laboratory Improvement Act (CLIA), accredited by the College of American Pathologists (CAP), American Association of Blood Banks (AABB), or the Joint Commission on the Accreditation of Hospitals (JCAH), certified by the Health Care Financing Administration (HCFA) for Medicare or Medicaid, or accredited by a comparable program approved by the Director, State Public Health Laboratory.

(2) Laboratories shall participate in a periodic proficiency testing program operated jointly by AABB and CAP or in a comparable periodic proficieney testing program with comparable standards of acceptable performance approved by the Director, State Public Health Laboratory. Laboratories shall demonstrate an acceptable level of proficieney according to the standards of the testing program.

(3) HIV antibody screening test results shall not be issued as final until all initially reactive tests have been repeated at least once, and all repeatedly reactive tests have been confirmed by the Western Blot method or a method approved by the Director, State Public Health Laboratory. The results of both screening and confirmatory tests shall be transmitted to the ordering physician.

(4) Laboratories shall perform HIV serologic tests only on specimens submitted by a physician licensed to practice medicine.

(b) An application for certification shall be submitted to the Department of Human Resources listing the name and location of the laboratory requesting certification, the name of the laboratory director, and evidence that the laboratory meets the requirements listed in Paragraph (a). Laboratories will be notified in writing within 45 days of the receipt of the application that they have been certified or, if certification has been denied, of the reasons for denial.

(c) Certification must be renewed when licensing, accreditation or certification renewal is required by the program that has accredited the laboratory pursuant to Paragraph (a). If a laboratory's license, accreditation or certification from one of these programs is suspended or revoked, the laboratory director shall immediately notify the department and the laboratory's certification under this Rule shall be revoked in accordance with G.S. 130A-23. Certification may otherwise be suspended or revoked in accordance with G.S. 130A-23 for violation of this Rule or for repeatedly issuing erroneous test results. The laboratory may apply for recertification when it can provide evidence that it meets the requirements listed in Paragraph (a)-(c).

(d) Appeals concerning the interpretation and enforcement of this Rule shall be made in accordance with G.S. 150B.

(e) Laboratories conducting HIV serologic testing may be certified under this Rule upon the Rule's effective date. However, these laboratories are not required to be certified until July 1, 1988.

Statutory Authority G.S. 130A-148(a).

CHAPTER 10 - HEALTH SERVICES: ENVIRONMENTAL HEALTH

SUBCHAPTER 10A - SANITATION

SECTION .0200 - SANITATION OF RESIDENTIAL CARE FACILITIES

.0201 DEFINITIONS

The following definitions shall apply throughout this Section:

(1) ~~"Residential care facility" means an establishment, including a family foster home, providing food and lodging facilities on a 24 hour basis for not more than 12 residents, exclusive of staff, but shall not mean a private home or a boarding or rooming house.~~ "Residential care facility," means an establishment providing room or board and for which a license or certificate of payment must be obtained from the Department of Human Resources. However, the term shall not include a child day care facility or an

institution as defined in 10 NCAC 10A .1300.

Statutory Authority G.S. 130A-235.

SECTION .0300 - SANITATION OF LODGING PLACES

.0302 PERMITS

(d) ~~Violation of any of these rules shall be sufficient cause for revoking the permit. Receipt of a sanitation rating of less than 70 percent, or Grade C, shall make revocation of permit mandatory. No permit to operate shall be reissued until the establishment has been reinspected by a representative of the Department of Human Resources and found to comply with these rules.~~ A permit shall be immediately revoked in accordance with G.S. 130A-23(d) for failure of the facility to maintain a minimum grade of C. A permit may otherwise be suspended or revoked in accordance with 130A-23. A new permit to operate shall be issued only after the establishment has been resurveyed by a sanitarian and found to comply with this Section. This resurvey will be conducted within a reasonable length of time after the request is made by the operator.

Statutory Authority G.S. 130A-248.

SECTION .0400 - SANITATION OF RESTAURANTS AND OTHER FOODHANDLING ESTABLISHMENTS

.0444 PERMITS

(e) A permit shall be immediately revoked in accordance with G.S. 130A-23(d) for failure of the facility to maintain a minimum grade of C. A permit may otherwise be suspended or revoked in accordance with 130A-23. ~~A permit shall be revoked for failure of the facility to maintain a minimum grade of C, and a permit may be revoked for failure to comply with the other provisions of the rules where an imminent health hazard may exist. No~~ A new permit to operate shall be ~~reissued until~~ issued only after the establishment has been resurveyed by a sanitarian and found to comply with this Section. This resurvey will be conducted within a reasonable length of time after the request is made by the operator.

Statutory Authority G.S. 130A-248.

SECTION .0500 - SANITATION OF MEAT MARKETS

.0502 PERMITS

(e) ~~A permit shall be revoked for failure to maintain a minimum grade of C, and a permit may be revoked for failure to comply with the other provisions of the rules where an imminent health hazard may exist. No permit to operate shall be reissued until the establishment has been reinspected by a representative of the Department of Human Resources and found to comply with these Rules.~~ A permit shall be immediately revoked in accordance with G.S. 130A-23(d) for failure of the facility to maintain a minimum grade of C. A permit may otherwise be suspended or revoked in accordance with 130A-23. A new permit to operate shall be issued only after the establishment has been surveyed by a sanitarian and found to comply with this Section. This resurvey will be conducted within a reasonable length of time after the request is made by the operator.

Statutory Authority G.S. 130A-228.

SECTION .1000 - SANITATION OF SUMMER CAMPS

.1004 PERMITS

(c) ~~Violation of this Section shall be sufficient cause for revoking the permit. Receipt of a sanitation rating of less than 70 percent, or Grade C, shall make revocation of permit mandatory. No permit to operate shall be reissued until the summer camp has been reinspected by a sanitarian and found to comply with this Section.~~ A permit shall be immediately revoked in accordance with G.S. 130A-23(d) for failure of the facility to maintain a minimum grade of C. A permit may otherwise be suspended or revoked in accordance with 130A-23. A new permit to operate shall be issued only after the establishment has been surveyed by a sanitarian and found to comply with this Section. This resurvey will be conducted within a reasonable length of time after the request is made by the operator.

Statutory Authority G.S. 130A-248.

SECTION .1300 - SANITATION OF HOSPITALS: NURSING AND REST HOMES: SANITARIUMS: SANATORIUMS: EDUCATIONAL AND OTHER INSTITUTIONS

.1301 DEFINITIONS

The following definitions shall apply throughout this Section in the interpretation and enforcement of this Section:

(1) "Institution" includes the following ~~and similar~~ establishments providing room or

board and for which a license or certificate of payment must be obtained from the Department of Human Resources, other than those operated exclusively by the State of North Carolina:

(a) hospital, as defined in G.S. ~~130-170~~ 131E-76 including doctors' clinic with food preparation facilities;

(b) nursing home, as defined in G.S. ~~130-9(e)(2);~~ 131E-101;

(c) sanitarium, sanatorium, and any similar establishment, other than hospital and nursing home, for the recuperation and treatment of 13 or more persons suffering from physical or mental disorders;

(d) rest home, providing custodial care on a 24-hour basis for 13 or more persons, including homes for the aged;

(e) orphanage, children's home or any similar establishment providing care on a 24-hour basis for 13 or more children;

(f) educational institution, providing dormitory or similar living quarters and meals in whole or in part to students, faculty, or others in attendance, including boarding schools and colleges;

~~(g) residential care facility, as defined in the Sanitation and Other Aspects of Residential Care Facilities, 10 NCAC 10A .0200.~~

However, the term shall not include a child day care facility or a residential care facility as defined in 10 NCAC 10A .0200.

Statutory Authority G.S. 130A-235.

SECTION .2200 - SANITATION OF BED AND BREAKFAST HOMES

.2202 PERMITS

(e) ~~A permit shall be revoked when a sanitation score of less than 70 percent or less than Grade C is received, or a violation of any of the rules of this Section exists which causes an imminent hazard. No new permit to operate shall be issued until the home has been surveyed by a sanitarian and found to comply with this Section. This survey will be conducted within a reasonable length of time after the request is made by the home.~~ A permit shall be immediately revoked in accordance with G.S. 130A-23(d) for failure of the facility to maintain a minimum grade of C. A permit may otherwise be suspended or revoked in accordance with 130A-23. A new permit to operate shall be issued only after the establishment has been surveyed by a sanitarian and found to comply with this Section. This resurvey will be conducted within a reasonable length of time after the request is made by the operator.

Statutory Authority G.S. 130A-250.

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Notice is hereby given in accordance with G.S. 150B-12 that the Division of Health Services intends to amend regulations cited as 10 NCAC 8A .1102 and .1103.

The proposed effective date of this action is April 1, 1988.

The public hearing will be conducted at 1:30 p.m. on December 22, 1987 at Cooper Memorial Health Building, Sixth Floor Board Room, 225 N. McDowell Street, Raleigh, North Carolina.

Comment Procedures: Any person may request information or copies of the proposed rules by writing or calling John P. Barkley, Agency Legal Specialist, Division of Health Services, P.O. Box 2091, Raleigh, North Carolina 27602-2091, (919) 733-3131. Written comments on these subjects may be sent to Mr. Barkley at the above address. Written and oral (for no more than ten minutes) comments on these subjects may be presented at the hearing. Notice should be given to Mr. Barkley at least three days prior to the hearing if you desire to speak.

CHAPTER 8 - HEALTH: PERSONAL HEALTH

SUBCHAPTER 8A - CHRONIC DISEASE

SECTION .1100 - MEDICATION ASSISTANCE PROGRAM FOR THE DISABLED

.1102 CLIENT ELIGIBILITY

(a) To be eligible for financial assistance from the MAPD, a person shall:

(3) Not have an average gross monthly income in excess of ~~eight hundred and seventy five dollars ($875.00);~~ nine hundred and seventeen dollars ($917.00);

Authority: S.L. 1985, c. 791, s. 19(a); S.L. 1987, c. 738, s. 91.

.1103 FINANCIAL ASSISTANCE PAYMENTS

(b) ~~For the first six months of FY 85-86 (July 1, 1985 through December 31, 1985), persons eligible for benefits will receive an amount which is equal to the estimated monthly medication cost or forty dollars ($40.00) per month, whichever is less.~~ In the absence of a physician's verification of the medication prescribed, the program will pay a benefit of no more than one hundred dollars ($100.00) per month to eligible persons. In order to receive a benefit of more than one hundred dollars ($100.00) per month, a physician's verification must be provided to the program.

~~(c) At the beginning of the second six months of FY 85-86 (January 1, 1986 through June 30, 1986), a review of the eligibility of persons receiving benefits will be made and the benefit formula modified as may be required to ensure payments to all eligible clients through June 30, 1986.~~

Authority: S.L. 1985, c. 791, s. 19(a); S.L. 1987, c. 738, s. 91.

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Notice is hereby given in accordance with G.S. 150B-12 that the Division of Medical Assistance intends to amend the regulation cited as 10 NCAC 26D .0012 and adopt the regulation cited as 10 NCAC 26G .0107.

The proposed effective date of this action is April 1, 1988.

The public hearing will be conducted at 1:30 p.m. on December 16, 1987 at North Carolina Division of Medical Assistance, 1985 Umstead Drive, Room 201, Raleigh, NC 27603.

Comment Procedures: Written comments concerning this amendment must be submitted by December 16, 1987 to: Director, Division of Medical Assistance, 1985 Umstead Drive, Raleigh, NC 27603. Oral comments may be presented at the hearing. In addition, a fiscal impact statement on these rules are available upon written request from the same address.

CHAPTER 26 - MEDICAL SERVICES

SUBCHAPTER 26D - LIMITATIONS ON AMOUNT: DURATION: AND SCOPE

.0012 TIME LIMITATION

(a) To receive payment, claims must be filed:

(1) Within 365 days of the ~~first~~ date of service for services other than inpatient hospital, home health or nursing home services;

(2) Within 365 days of the date of discharge for inpatient hospital services and the last date of service in the month for home health and nursing home services ~~or~~ not to exceed the limitations ~~as~~ specified in 42 C.F.R. 447.45;

(3) Within ~~90~~ 180 days of the Medicare or other third party payor.

(b) Providers must file adjustments no later than ~~180 days~~ 18 months after date of payment or adjustments will not be made.

Authority G.S. 108A-25(b); 42 C.F.R. 447.45.

SUBCHAPTER 26G - PROGRAM INTEGRITY

SECTION .0100 - GENERAL

.0107 RECORD RETENTION

All Title XIX providers shall keep and maintain all Medicaid financial, medical, or other records necessary to fully disclose the nature and extent of services furnished to Medicaid recipients and claimed for reimbursement. These records shall be retained for a period of not less than five years from the date of service, unless a longer retention period is required by applicable federal or state law, regulations or agreements.

Authority G.S. 108A-25(b); 108A-54; 108A-63; 108A-64; 42 CFR Part 455.

TITLE 15 - DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT

Notice is hereby given in accordance with G.S. 150B-12 that the Environmental Management Commission intends to amend regulation cited as 15 NCAC 2B .0311.

The proposed effective date of this action is June 1, 1988.

The public hearing will be conducted at 7:30 p.m. on December 16, 1987 at Carrboro Town Hall, Town of Carrboro, 301 West Main Street, Carrboro, North Carolina.

Comment Procedures: All persons interested in this matter are invited to attend. Comments, statements, data, and other information may be

submitted in writing prior to, during, or within thirty (30) days after the hearing or may be presented orally at the hearing. Oral statements may be limited at the discretion of the hearing officer. Submittal of written copies of oral statements is encouraged.

CHAPTER 2 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 2B - SURFACE WATER STANDARDS: MONITORING

SECTION .0300 - ASSIGNMENT OF STREAM CLASSIFICATIONS

.0311 CAPE FEAR RIVER BASIN

(b) The Cape Fear River Basin Schedule of Classification and Water Quality Standards was amended effective:

(1) March 1, 1977;
(2) December 13, 1979;
(3) December 14, 1980;
(4) August 9, 1981;
(5) April 1, 1982;
(6) December 1, 1983;
(7) January 1, 1985;
(8) August 1, 1985;
(9) December 1, 1985;
(10) February 1, 1986;
(11) July 1, 1987;
(12) October 1, 1987;
(13) June 1, 1988.

(c) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin has been amended effective June 1, 1988 as follows:

(1) Cane Creek [Index No. 16-21-(1)] from source to a point 0.5 mile north of N.C. Hwy. 54 (Cane Reservoir Dam) including the Cane Creek Reservoir and all tributaries has been reclassified from Class WS-III to WS-I.
(2) Morgan Creek [Index No. 16-41-2-(1)] to the University Lake dam including University Lake and all tributaries has been reclassified from Class WS-III to WS-I.

Statutory Authority G.S. 143-214.1; 143-215.1; 143-215.3(a) (1).

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Notice is hereby given in accordance with G.S. 150B-12 that the Environmental Management Commission intends to amend regulation cited as 15 NCAC 2B .0315.

The proposed effective date of this action is July 1, 1988.

The public hearing will be conducted at 7:30 p.m. on January 13, 1988 at Wake Forest Town Hall, Town of Wake Forest, 401 East Elm Street, Wake Forest, North Carolina 27587.

Comment Procedures: All persons interested in this matter are invited to attend. Comments, statements, data, and other information may be submitted in writing prior to, during, or within 30 days after the hearing or may be presented orally at the hearing. Oral statements may be limited at the discretion of the hearing officer. Submittal of written copies of oral statements is encouraged.

.0315 NEUSE RIVER BASIN

(b) The Neuse River Basin Schedule of Classification and Water Quality Standards was amended effective:

(1) March 1, 1977;
(2) December 13, 1979;
(3) September 14, 1980;
(4) August 9, 1981;
(5) January 1, 1982;
(6) April 1, 1982;
(7) December 1, 1983;
(8) January 1, 1985;
(9) August 1, 1985;
(10) February 1, 1986;
(11) July 1, 1988.

(c) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin has been amended effective July 1, 1988 as follows:

(1) Smith Creek [Index No. 27-23-(1)] from source to the dam at Wake Forest Reservoir has been reclassified from Class WS-III to WS-I.
(2) Little River [Index No. 27-57-(1)] from source to the N.C. Hwy. 97 Bridge near Zebulon including all tributaries has been reclassified from Class WS-III to WS-I.
(3) An unnamed tributary to Buffalo Creek just upstream of Robertson's Pond in Wake County from source to Buffalo Creek including Leo's Pond has been reclassified from Class C to B.

Statutory Authority G.S. 143-214.1; 143-215.1; 143-215.3(a) (1).

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Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Department of Natural Resources and Community Development intends to adopt regulation cited as 15 NCAC 2E .0301.

The proposed effective date of this action is April 1, 1988.

The public hearing will be conducted at 7:00 p.m. on January 7, 1988 at Orange County Courthouse, 106 E. Margaret Lane, Hillsborough, North Carolina 27278.

Comment Procedures: All persons interested in this matter are invited to attend. Comments, statements, and other information may be submitted in writing prior to the hearing, or may be presented orally at the hearing. Oral statements may be limited at the discretion of the hearing officer. Submittal of written copies of oral statements is encouraged. Contact Michael Douglas or Tamara Whisnant at 512 N. Salisbury Street, Raleigh, NC 27611 (919) 733-4064 for additional information.

SUBCHAPTER 2E - CAPACITY USE AREA WATER WITHDRAWAL

SECTION .0300 - CAPACITY USE AREA NO. 2

.0301 DECLARATION AND DELINEATION OF CAPACITY USE AREA NO. 2

The Environmental Management Commission declares and delineates the following described geographical area a capacity use area:

Beginning at a point where the line of confluence of the Little River and the Eno River strikes the east bank; thence from said point of beginning in a southerly direction along a slight ridge 0.6 mile to Hamlin Road (SR 1634), said point being 0.75 mile west of the intersection of SR 1634 and SR 1635; thence southwestward along Hamlin Road 2.0 miles to Old Oxford Road (SR 1004); thence southwestward along Old Oxford Road 1.4 miles to Roxboro Road (US 501 Business); thence northwestward along Roxboro Road 0.6 mile to Carver Street (SR 1407); thence westward along Carver Street 3.5 miles to Rose of Sharon Road (SR 1404); thence southward along Rose of Sharon Road 0.15 mile to Cole Mill Road (SR 1401); thence southeastward along Cole Mill Road 0.2 mile to Berini Drive; thence westward along Berini Drive 0.8 mile to Marshall Way; thence westward along the ridge 0.75 mile cross country across I-85 to the junction of Hillsborough Road (US 70) and Sparger Road (SR 1400); thence westward along Hillsborough Road 0.4 mile to Highway NC 751; thence southward along NC 751 approximately 0.9 mile to a point where the ridge crosses NC 751; thence westward along the ridge across Couch Mountain 1.7 miles to a point where the ridge crosses SR 1716, said point being 0.3 mile north of the intersection of SR 1716 and SR 1841; thence in a generally westward direction along SR 1716 approximately 0.4 mile to the intersection of Mt. Hermon Church Road (SR 1713) and Murphy School Road (a continuation of SR 1716); thence southwestward along Murphy School Road 1.25 miles to Brockwell Road (SR 1720); thence westward along Brockwell Road 0.45 mile to University Station Road (SR 1712); thence westward 0.3 mile along a trail, which is a continuation of Brockwell Road, to the junction of Pine Hill Road and Cool Spring Road; thence westward along Pine Hill Road 0.1 mile to Green Hill Road; thence in a generally westward direction along the ridge 1.6 miles cross country to NC 86 at the New Hope Cemetery; thence northwestward along NC 86 approximately 1.2 miles to the junction of a private road; thence in a generally westward direction along the ridge 1.3 miles cross country to the junction of Davis Road (SR 1129) and Old 86 Road (SR 1009); thence in a generally westward direction along the ridge 3.4 miles, running somewhat parallel to and south of Davis Road, to the intersection of Davis Road, Orange Grove Road (SR 1006), and Tree Farm Road (SR 1199); thence northeastward along Orange Grove Road 0.35 mile to a power line; thence westward along the power line 2.2 miles to a point where the power line crosses Borland Road (SR 1126), said point being 0.46 mile southeast of the intersection of SR 1126 and Chestnut Ridge Church Road (SR 1125); thence northwestward along Borland Road 0.46 mile to Chestnut Ridge Church Road; thence northward along Chestnut Ridge Church Road 0.4 mile to the point of intersection of said road with the ridge and a farm road to the east; thence generally northwestward with the ridge 1.9 miles to a point where the ridge crosses Mt. Willing Road (SR 1120), said point being 0.35 mile northeast of the intersection of SR 1120 and Buckhorn Road (SR 1114); thence westward along Mt. Willing Road 0.35 mile to Buckhorn Road; thence northward along Buckhorn Road 3.25 miles to Frazier Road

(SR 1310) to include a pond on the west side of Buckhorn Road, said pond being 0.5 mile north of the intersection of SR 1114 and SR 1120; thence generally northeast along Frazier Road 1.3 miles to an unimproved farm road to the west; thence northward along the ridge 0.65 mile to a point where the ridge crosses Lebanon Road (SR 1306), said point being 0.25 mile west of the intersection of SR 1306 and SR 1310; thence eastward along the ridge 0.25 mile to a point where the ridge crosses Frazier Road (which at that location is SR 1342), said point being 0.13 mile north of the intersection of SR 1342 and SR 1306; thence northeastward along the ridge 0.7 mile to a point where the ridge touches Ira Road (SR 1341), said point being 0.5 mile north of the intersection of SR 1341 and SR 1306; thence northeastward along Ira Road 0.55 mile to High Rock Road (SR 1340); thence northwestward along High Rock Road 0.9 mile to the intersection of the ridge and an unimproved road to the north; thence northward along said unimproved road which follows the ridge 1.5 miles to a point where the road intersects Harmony Church Road (SR 1341), said point being 0.4 mile southwest of the intersection of SR 1341 and SR 1343; thence northward along the ridge 0.6 mile to a point where the ridge touches Mill Creek Road (SR 1343), said point being 0.5 mile northeast of the intersection of SR 1343 and SR 1341; thence northeastward along Mill Creek Road 0.4 mile to Governor Scott Road (SR 1351); thence northwestward along the ridge 1.1 miles to the intersection of Poteat Road (SR 1349) and Lonesome Road (SR 1350); thence northward along the ridge 1.2 miles to a point where the ridge crosses Carr Store Road (SR 1004), said point being southeast 0.2 mile from the intersection of SR 1004 and SR 1361; thence northward along the ridge to a point where the ridge touches Penecost Road (SR 1361), said point being 0.25 mile north of the intersection of SR 1361 and SR 1004; thence northward along the ridge generally following Penecost Road 1.3 miles to Doc Corbett Road (SR 1370); thence northward along the ridge 1.3 miles to the intersection of Highway NC 49 and McCullough Road (SR 1317); thence eastward along McCullough Road 0.35 mile to Penecost Road (SR 1361); thence northward along Penecost Road 0.25 mile to a point where the ridge leaves the road; thence generally northeast along the ridge 0.85 mile to a point where the ridge touches NC 86 and an unimproved road to the east; said point being 0.55 mile northwest of the intersection of NC 86 and SR 1371; thence southeastward along NC 86 approximately 1.2 miles to a point where the ridge leaves NC 86 in a northeasterly direction, said point being 0.2 mile southeast of the intersection of NC 86 and Efland-Cedar Grove Road (SR 1357); thence northeastward along an unimproved road 0.4 mile to Allison Road (SR 1501); thence northward along Allison Road 0.08 mile to an unimproved road to the east; thence eastward along the ridge 0.9 mile to a point where the ridge crosses Hurdle Mills Road (SR 1504), said point being 0.1 mile south of the intersection of SR 1504 and SR 1503; thence eastward along the ridge to a point where the ridge touches Caviness Jordan Road (SR 1506), said point being 0.35 mile south of the intersection of SR 1506 and SR 1577; thence southward along Caviness Jordan Road 0.4 mile; thence southwestward along the ridge line to a point where the ridge crosses Hawkins Road (SR 1508), said point being 0.15 mile west of the junction of SR 1508 and SR 1506; thence eastward along Hawkins Road 0.2 mile to Caviness Jordan Road; thence southward along said road 0.5 mile to Olin Road (SR 1546); thence southeastward along Olin Road 0.3 mile to an unimproved road to the south; thence southward along the ridge 0.6 mile to the intersection of NC 86 and an unimproved road to the east, said point being 0.45 mile southeast of the intersection of NC 86 and SR 1353; thence southeastward along NC 86 approximately 4.2 miles to the point of intersection of NC 86 and an unimproved road to the east, said point being north of Jones Grove Church, with the exception of a pond west of NC 86 approximately 1 mile south of the intersection of NC 86 and Sawmill Road (SR 1545); thence generally eastward along the ridge 1.5 miles to a point where the ridge intersects Phelps Road (SR 1551), said point being 1.25 miles east of the intersection of SR 1551 and NC 86; thence along Phelps Road 1.3 miles to the intersection of NC 57; thence generally southeastward along the ridge 1.15 miles to a point where the ridge crosses Miller Road (SR 1554), said point being 0.4 mile south of the intersection of SR 1554 and SR 1553; thence generally eastward along the ridge to a point where the ridge crosses New Sharon Church Road (SR 1538) at the intersection of Walker Road (SR 1553); thence northeastward along New Sharon Church Road 2.2 miles to the intersection of SR 1538 and Schley Road (SR 1548); thence generally southeastward along the ridge 1.7 miles to a point where the ridge touches Lipscomb Grove Church Road (SR 1574) at Lipscomb Grove

Church, said point being 0.7 mile east of the intersection of SR 1574 and SR 1548; thence generally northeastward along the ridge 0.95 mile to a point where the ridge crosses Terry Road (SR 1573), said point being 0.7 mile north of the intersection of SR 1573 and SR 1002; thence southward along SR 1573 approximately 1.3 miles to the Orange and Durham County line; thence southward along the county line 0.6 mile to Ebenezer Church Road (SR 1452); thence eastward along SR 1452 approximately 0.1 mile to Bivins Road (SR 1453); thence southeastward along Bivins Road 0.5 mile to a power line; thence northeastward along the power line 0.35 mile to a point where the ridge crosses under the power line; thence eastward along the ridge 0.75 mile to a point where the ridge crosses Russell Road (SR 1451), said point being 1.3 miles southwest of the intersection of SR 1451 and SR 1003; thence northeastward along Russell Road 1.3 miles to Guess Road (SR 1003); thence southeastward along Guess Road 0.7 mile to Milton Road (SR 1456); thence southeastward along Milton Road 1.8 miles to Massey Road (SR 1458), to include two ponds on the east side of Milton Road 0.5 mile southeast of the intersection of Milton Road and Andover Road (SR 1581); thence eastward along Massey Road 0.2 mile to Roxboro Road (US 501); thence southward along Roxboro Road 0.1 mile to Goodwin Road (SR 1640); thence eastward along Goodwin Road 0.5 mile to Crestview Drive (SR 1700); thence southward along Crestview Drive 0.1 mile to a point where the ridge crosses Crestview Drive; thence eastward along the ridge 1.5 miles to the intersection of Goodwin Road and Infinity Road (SR 1639); thence southeastward along Infinity Road 0.3 mile to a point where the ridge crosses said road; thence generally southeastward along the ridge 0.8 mile to a point where the ridge crosses Snow Hill Road (SR 1631), said point being 0.3 mile north of the intersection of SR 1631 and SR 1004; thence southeast along the ridge 0.15 mile to a point where the ridge crosses Old Oxford Road (SR 1004), said point being 0.15 mile north of the intersection of SR 1004 and SR 1631; thence eastward along the ridge 1.0 mile to a point where the line of confluence touches the west bank of the Eno River; thence along the line of confluence to the point of beginning.

Statutory Authority G.S. 143-215.13 through 143-215.22.

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Notice is hereby given in accordance with G.S. 150B-12 that the Coastal Management intends to amend regulation cited as 15 NCAC 7H .0503.

The proposed effective date of this action is March 1, 1988.

The public hearing will be conducted at 10:00 a.m. on December 17, 1987 at Marine Fisheries Building, 3411 Arendell Street, Morehead City, NC.

Comment Procedures: All persons interested in these matters are invited to attend the public hearing. The Coastal Resources Commission will receive written comments up to the date of the hearing. Any person desiring to present lengthy comments is requested to submit a written statement for inclusion in the record of proceedings at the public hearing. Additional information concerning the hearing or the proposals may be obtained by contacting Portia Rochelle, Division of Coastal Management, P. O. Box 27687, Raleigh, NC 27611-7687, (919) 733-2293.

CHAPTER 7 - COASTAL MANAGEMENT

SUBCHAPTER 7H - STATE GUIDELINES FOR AREAS OF ENVIRONMENTAL CONCERN

SECTION .0500 - NATURAL AND CULTURAL RESOURCE AREAS

.0503 NOMINATION AND DESIGNATION PROCEDURES

(f) Public Hearing. If, after receiving the detailed review, the CRC decides to consider formal designation of the site as an AEC and adopt the particular management plan and/or use standards developed, a public hearing or hearings shall be conducted and notice of hearing published and distributed in accordance with the requirements of G.S. 113A-115 and G.S. 150B-12. ~~will be held, within 45 days after the CRC decision, in the county in which the site is located. Notice of any such hearing shall be given not less than 30 days before the date of such hearing. The notice shall state that copies of the site description and of any rules proposed to implement the designation are available for public inspection at the county courthouse of the affected county and at the Raleigh Office of the DCM. At this hearing, the CRC shall present the scientific~~

~~documentation and general statements in support of the designation decision. Any person who desires to comment on the proposed AEC or any proposed rules may do so at the public hearing or may submit written comments to the CRC within 30 days following the public hearing.~~ Copies of the site description and of any proposed Rules shall be made available for public inspection at the county courthouse in each affected county and at the Raleigh Office of the Division of Coastal Management. At the hearing(s) the CRC shall present the documentation and recommendations in support of the designation decision.

(g) Formal Designation. After consideration of all comments, the commission will make its final judgment. If the site is ~~designed~~ designated as an AEC, CRC will also adopt a management strategy or use standards applicable to the AEC. ~~Designation is by rule, and will be effective the first day of the second month following CRC designation.~~

Statutory Authority G.S. 113A-107(a), (b); 113A-113(b)(4e) through (b)(4h).

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Notice is hereby given in accordance with G.S. 150B-12 that the NRCD - Division of Community Assistance intends to adopt regulations cited as 15 NCAC 13O .0101 - .0104; .0201 - .0202; .0301 - .0304; .0401 - .0403; .0501 - .0503; .0601 - .0605; .0701 - .0704.

The proposed effective date of this action is March 1, 1988.

The public hearing will be conducted at the following times and locations: 10:00 a.m. on December 16, 1987 at Beaufort County Community College, US 264 E., Washington, NC; 7:00 p.m. on December 16, 1987 at Personnel Development Center, 101 E. Peace Street, Raleigh, NC; 3:00 p.m. on December 17, 1987 at Catawba Valley Technical College, US 64-70, Hickory, NC.

Comment Procedures: Written comments may be submitted to: Chandler Bryan, Division of Community Assistance, P. O. Box 27687, Raleigh, NC 27611-7687.

CHAPTER 13 - DIVISION OF COMMUNITY ASSISTANCE

SUBCHAPTER 13O - EMERGENCY SHELTER GRANTS PROGRAM ADMINISTRATIVE RULES

SECTION .0100 - GENERAL PROVISIONS

.0101 PURPOSE AND OBJECTIVES

The purpose of the North Carolina Emergency Shelter Grants Program (hereinafter referred to as "ESGP") is to assist families and individuals who are homeless primarily due to their economic circumstances. Consistent with this purpose, ESGP funds will assist local governments in improving the quality and availability of emergency shelters and services for the homeless in their community.

Authority G.S. 143-323; 143B-276; P. L. 100-77; 24 CFR 575.

.0102 DEFINITIONS

The following terms shall apply to the rules of this Subchapter:

(1) "Act" means the Stewart B. McKinney Homeless Assistance Act, P.L. 100-77, as amended.

(2) "Applicant" means a local government which makes an application pursuant to the provisions of this Subchapter.

(3) "Chief Elected Official" means either the elected Mayor of a City or the Chairman of a County Board of Commissioners.

(4) "ESGP" means the state-administered Emergency Shelter Grants Program.

(5) "Local Government" means any unit of general city or county government in the state.

(6) "NRCD" means the North Carolina Department of Natural Resources and Community Development.

(7) "Obligated" means that the recipient or subrecipient, as appropriate, has placed orders, awarded contracts, or entered similar transactions that require payment from the grant amount.

(8) "Recipient" means a local government that has been awarded an ESGP grant and has executed a Grant Agreement with NRCD.

(9) "Secretary" means the Secretary of the Department of Natural Resources and Community Development or his designee.

(10) "Shelter" means an individual facility whose purpose is to assist homeless persons through activities funded under this Subchapter.

(11) "State" means the state of North Carolina.

Authority G.S. 143-323; 24 CFR 575.3; P.L. 100-77.

.0103 WAIVERS

The Secretary may waive any requirements of this Subchapter not required by law whenever he determines that undue hardship to applicants, recipients or beneficiaries will result from applying the requirements and where application of the requirements would adversely affect the purposes of the Act.

Authority G.S. 143-323; P.L. 100-77; 24 CFR 575.

.0104 ELIGIBLE APPLICANTS

Eligible applicants are all local governments.

Authority G.S. 143-323; 24 CFR 575.23.

SECTION .0200 - ELIGIBLE AND INELIGIBLE ACTIVITIES

.0201 ELIGIBLE ACTIVITIES

This Subchapter, in accordance with G.S. 150B-14(c), adopts by reference as eligible activities those activities described as such in the Act and in 24 CFR 575.21(a), as amended. Copies of these sections of federal law and regulation are available for public distribution from the Division of Community Assistance of NRCD.

Authority G.S. 143-323; 150B-14; 24 CFR 575.21.

.0202 INELIGIBLE ACTIVITIES

This Subchapter, in accordance with G.S. 150B-14(c), adopts by reference as ineligible activities those activities described as such in the Act and in 24 CFR 575.21(b), as amended. Copies of these sections of federal law and regulation are available for public distribution from the Division of Community Assistance of NRCD.

Authority G.S. 143-323; 150B-14; 24 CFR 575.21.

SECTION .0300 - DISTRIBUTION OF FUNDS

.0301 APPLICATION REQUIREMENTS

(a) Local governments are required to submit applications in a manner prescribed by NRCD in order to be considered for funding. Selection of applications for funding will be based primarily on information contained in the application, thus applications must provide sufficient information for NRCD to evaluate them.

(b) Applicants may apply for more than one grant and be awarded more than one grant, providing the total amount of funds awarded to a single shelter does not exceed the maximum limits described in Sections .0400 and .0500 of this Subchapter.

(c) NRCD shall designate specific dates for submission of ESGP grant applications. Grant application submission dates will be announced by NRCD a minimum of 20 days before the date applications are due.

(d) Applications must be received by NRCD administrative offices in Raleigh before 5:00 p.m. on the submission date or, if sent by mail, must be postmarked on the submission date.

(e) The applicant shall certify to NRCD that it will comply with all applicable federal and state laws, regulations, rules and executive orders.

(1) Copies of these federal and state documents are available for public distribution from the Division of Community Assistance of NRCD.

(2) Notwithstanding the provisions of Paragraph (d) above, certifications of compliance may be submitted up to two weeks after the date the application is due. This provision applies only to certifications.

(f) Applicants must comply with the Act, all applicable federal and state laws, regulations, rules, executive orders and guidelines issued by NRCD.

Authority G.S. 143-323; 24 CFR 575.61.

.0302 SIZE OF GRANTS

Grants are applied for and awarded in two categories: Operations/Services and Rehabilitation.

(1) Operations/Services. The maximum amount which may be applied for and awarded in the Operations/Services category depends on the size of the shelter on whose behalf the application is made. Shelter size shall be determined by overnight lodging capacity. Maximum awards per shelter are:

(a) Ten thousand dollars ($10,000) for a shelter with a capacity of ten or fewer persons per night;

(b) Twenty thousand dollars ($20,000) for a shelter with a capacity from 11 to 20 persons per night;

(c) Forty thousand dollars ($40,000) for a shelter with a capacity of 21 or more persons per night.

(2) Rehabilitation. The maximum grant amount per shelter which may be applied for or awarded in the Rehabilitation Category is thirty-five thousand dollars ($35,000).

(3) The minimum grant which may be applied for or awarded in either of the above categories is one thousand five hundred dollars ($1,500).

(4) Notwithstanding the provisions of Paragraphs (a) and (b) above, NRCD reserves the right to fund applications for less than the requested amount in the event that the total amount of funds requested exceeds the total amount of funds available; in this event, NRCD may consider local needs and shelter resources. NRCD also reserves the right to award grants exceeding the above limits if the total amount of funds requested is less than the total amount of funds available.

Authority G.S. 143-323; 24 CFR 575.

.0303 DISTRIBUTION OF FUNDS

A minimum of 30 percent of ESGP funds available will be awarded in each of the two categories: Operations/Services and Rehabilitation.

Authority G.S. 143-323; 24 CFR 575.

.0304 REALLOCATION

Any ESGP funds recaptured by NRCD, as provided for in Rule .0704 and Rule .0605 of this Subchapter, may be distributed to grant recipients in a manner to be prescribed by NRCD.

Authority G.S. 143-323; 24 CFR 575.41.

SECTION .0400 - OPERATIONS/SERVICES CATEGORY

.0401 DEFINITION

This Section, in accordance with G.S. 150B-14(c), adopts by reference as Operations/Services Category activities those activities described in 24 CFR 575.21(a)(2) and (3), as amended.

Authority G.S. 143-323; 24 CFR 575.21.

.0402 ELIGIBILITY REQUIREMENTS

Applications for Operations/Services funds must show that:

(1) All funds received will be expended within 180 days of the date of the grant award;

(2) Funds used for the provision of essential services:

(a) Total 15 percent or less of the entire Operations/Services grant amount;

(b) Are used to provide either a new service or a quantifiable increase in the level of service;

(3) Matching resources required by the federal government will be available during the period of the grant;

(4) Each shelter assisted with ESGP Operations/Services funds will remain in existence as a shelter for a period of at least three years from the date of occupancy as a shelter or from the date of the grant award, whichever is later, or longer if Rule .0502(c)(2) of this Subchapter applies;

(5) The federal restrictions on the use of federal funds by primarily religious organizations will be met. These include restrictions against religious discrimination and proselytizing.

Applications that do not meet these requirements will not be rated or funded.

Authority G.S. 143-323; 24 CFR 575.

.0403 SELECTION CRITERIA

(a) Applications will be selected for funding by NRCD based on overall project quality, geographic distribution of applicants, and the availability of ESGP funds.

(b) Project quality will be determined by NRCD based on the following factors:

(1) Benefits of proposed activities to homeless persons, including type and number of both current and new beneficiaries;

(2) Feasibility of the proposed activities, including:

(A) Local resources for sheltering the homeless;

(B) Local commitment to continue the program to be assisted with ESGP Funds.

Authority G.S. 143-323; 24 CFR 575.

SECTION .0500 - REHABILITATION CATEGORY

.0501 DEFINITION

This Section, in accordance with G.S. 150B-14(c), adopts by reference as Rehabili-

tation Category activities those activities described in 24 CFR 575.21(a)(1), as amended. These include renovation, major rehabilitation, or conversion of a shelter.

Authority G.S. 143-323; 24 CFR 575.21.

.0502 ELIGIBILITY REQUIREMENTS

Applications for Rehabilitation funds must show that:

(1) Matching resources required by the federal government will be available during the period of the grant;

(2) All funds will be obligated within 180 days of the date of the grant award and expended within 360 days of the date of the grant award;

(3) Federal requirements for continuation of service will be met. These include:

(a) Shelters renovated with ESGP funds shall remain in existence as shelters for three years after initial date of occupancy as a shelter or the date of the grant award, whichever is later;

(b) Shelters on which major rehabilitation or conversion is undertaken with ESGP funds shall remain in use as shelters for ten years after initial occupancy as a shelter or the date of the grant award, whichever is later;

(4) The federal restrictions on the use of federal funds by primarily religious organizations will be met. These include restrictions on religious discrimination and proselytizing;

(5) No building to be assisted with ESGP funds is owned by a primarily religious organization; and

(6) The grantee will comply with all applicable state and federal laws, regulations, and guidelines pertaining to the use of federal funds in rehabilitation activities.

Applications that do not meet these requirements will not be rated or funded.

Authority G.S. 143-323; 24 CFR 575.33.

.0503 SELECTION CRITERIA

(a) Applications will be selected for funding by NRCD based on overall project quality, geographic distribution of applicants, and the availability of ESGP funds.

(b) Project quality will be determined by NRCD based on the following factors:

(1) Benefits of proposed activities to homeless persons, including type and number of both current and new beneficiaries;

(2) Feasibility of the proposed activities, including:

(A) Local resources for sheltering the homeless;

(B) Local commitment to continue the program to be assisted with ESGP Funds.

Authority G.S. 143-323; 24 CFR 575.

SECTION .0600 - GRANT ADMINISTRATION

.0601 GRANT AGREEMENT

(a) Upon approval of the application by NRCD, a written grant agreement will be executed between the recipient and NRCD. The Rules in this Subchapter, subsequent guidelines prepared by NRCD, the approved application, and any subsequent amendments to the approved application shall become a part of the grant agreement.

(b) The grant agreement in its original form and all modifications thereto shall be kept on file in the office of the recipient in accordance with Rule .0604 of this Section.

(c) ESGP Program amendments. Recipients shall request prior NRCD approval for all amendments to the grant agreement when:

(1) The recipient proposes to change the approved project budget amount for any of the three types of eligible activities as described in 24 CFR 575.21(a).

(2) The recipient proposes to distribute all or part of their grant(s) to programs, shelters, or agencies other than those originally approved in the application.

(d) NRCD reserves the right to disallow any proposed amendment to the grant agreement.

Authority G.S. 143-323; 24 CFR 575.61.

.0602 METHOD OF ADMINISTRATION

(a) Recipients may delegate to authorized subrecipients the responsibility of undertaking or carrying out ESGP activities pursuant to 24 CFR 575.3 and 24 CFR 575.23. All entities so designated under this Subparagraph by recipients to undertake or carry out ESGP activities pursuant to this Subchapter shall be considered subrecipients.

(b) NRCD shall make payments of ESGP funds to recipients on a cost-reimbursement or cost-incurred basis. All requests for payment shall be for amounts of not less than one thousand five hundred dollars ($1,500).

(c) All payments of ESGP funds to recipients must be for costs incurred during the period of the grant. Recipients will not receive pay-

ment for costs incurred before the execution of the Grant Agreement.

Authority G.S. 143-323; 24 CFR 575.

.0603 PROPERTY MANAGEMENT STANDARDS

(a) Property acquired with ESGP grant funds shall be used to provide benefits to the homeless.

(b) Recipients and subrecipients should use proceeds from the disposition of property acquired with ESGP funds in a manner which provides benefit to the homeless in their community.

Authority G.S. 143-323; 24 CFR 575.61.

.0604 RECORDKEEPING

(a) NRCD, or any of NRCD's duly authorized representatives, shall have access to all books, accounts, records, reports, files, and other papers or property of recipients or their subrecipients and contractors pertaining to funds provided under this Subchapter for the purpose of making surveys, audits, examinations, excerpts and transcripts.

(b) Financial records, supporting documents and all other reports and records required under this Subchapter, and all other records pertinent to the ESGP Program shall be retained by the recipient for a period of at least three years from the date of the closeout of the program, except:

(1) Records documenting compliance with 24 CFR 575.53 shall be kept for the period of compliance;

(2) Records shall be retained until all litigations, claims, or audit findings involving the records have been resolved.

(c) All records shall be sufficient to determine compliance with the requirements and primary objectives of the ESGP Program and all other applicable laws and regulations. All accounting records shall be supported by source documentation.

Authority G.S. 143-323; 24 CFR 575.67.

.0605 GRANT CLOSEOUTS

ESGP grants will be closed out by NRCD in the following circumstances:

(1) NRCD will initiate closeout procedures after NRCD determines, in consultation with the recipient, that there are no impediments to closeout and that all ESGP funds have been expended.

(2) Termination of grant for mutual convenience. Grant assistance provided under this Subchapter may be cancelled, in whole or in part, by NRCD or the recipient, prior to the completion of the approved ESGP Program, when both parties agree that the continuation of the program no longer is feasible or would not produce beneficial results commensurate with the further expenditure of funds.

(3) Termination for cause. The Secretary may terminate the recipient's entire grant, or the remaining balance thereof, in accordance with Rule .0704 of this Subchapter.

Authority G.S. 143-323; 159-34; 24 CFR 575.61.

SECTION .0700 - COMPLIANCE AND REPORTING REQUIREMENTS

.0701 COMPLIANCE

Recipients shall have responsibility for ensuring that ESGP funds are expended as stated in their grant agreement and in conformance with all applicable federal and state laws, regulations, and guidelines, regardless of whether activities are carried out by the recipient or a subrecipient. NRCD may prescribe procedures for ensuring compliance with the provisions of this Rule.

Authority G.S. 143-323; 24 CFR 575.61.

.0702 REPORTING

(a) NRCD may require recipients to provide an interim performance report in a form prescribed by NRCD. Recipients will be notified a minimum of 20 days before the report will be due.

(b) The recipient shall submit an Annual Performance Report to NRCD as part of closeout procedures. For grants not closed out, recipients shall submit an annual performance report no later than 270 days after the date that NRCD makes the grant available to the recipient. The annual performance report shall be in a form prescribed by NRCD.

Authority G.S. 143-323; 24 CFR 575.65.

.0703 MONITORING BY NRCD

(a) The secretary may evaluate activities conducted under this Subchapter and their effectiveness in meeting the objectives of the ESGP program.

(b) The secretary may conduct such evaluations using NRCD personnel, or by contract

or other arrangement with public or private agencies.

Authority G.S. 143-323; 24 CFR 575.69.

.0704 REMEDIES

When the secretary determines on the basis of a review of a recipient's performance that the objectives of an ESGP program described in the grant agreement have not been met, NRCD may take one or more of the following actions as appropriate:

(1) Issue a warning letter that further failure to comply with such requirements will result in a more serious sanction;
(2) Condition a future grant;
(3) Direct the recipient to stop the incurring of costs with grant amounts;
(4) Require that some or all of the grant amounts be remitted to NRCD;
(5) Reduce the level of funds the recipient would otherwise be entitled to receive; or
(6) Elect not to provide future grant funds to the recipient until appropriate actions are taken to ensure compliance.

Authority G.S. 143-323; 24 CFR 575.69.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS

Notice is hereby given in accordance with G.S. 150B-12 that the State Board of Certified Public Accountant Examiners intends to adopt and amend regulations cited as 21 NCAC 8A .0105; 8F .0103; .0401; 8G .0110; .0201; .0202; .0203; .0208; .0209; .0210; .0211; .0212; .0403; .0404; 8H .0001 and 8J .0002.

The proposed effective date of this action is April 1, 1988.

The public hearing will be conducted at 9:00 a. m. on January 6, 1988 at N.C. State Board of CPA Examiners, 1101 Oberlin Rd., Suite 104, Raleigh, NC 27605.

Comment Procedures: Any person interested in these rules may present oral comments relevant to the action proposed at the public rule-making hearing or deliver written comments to the board office not later than noon on January 6, 1988. Anyone planning to attend the hearing should notify the Executive Director at the board offices by noon Wednesday, December 30, 1987, whether they wish to speak on the proposal and whether they will speak in favor of the proposal or against it. Oral presentations will be limited to 10 minutes per speaker per rule.

CHAPTER 8 - BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS

SUBCHAPTER 8A - DEPARTMENTAL RULES

SECTION .0100 - ORGANIZATIONAL RULES

.0105 PURPOSES AND RESPONSIBILITIES

~~The purposes and responsibilities of the North Carolina State Board of Certified Public Accountant Examiners are to carry out the powers and duties enumerated in North Carolina General Statute Chapter 93-12, 93B and 55B.~~

(a) The North Carolina State Board of Certified Public Accountant Examiners is an independent state agency, unlike the N.C. Association of CPAs. The state board is an occupational licensing board and is authorized by Chapter 93 of the N. C. General Statutes.

(b) The board has these primary responsibilities:

(1) to grant CPA certificates to those who have met legal requirements including age, citizenship, education, experience and good moral character;
(2) to register CPA firms;
(3) to annually renew CPA certificates and firm registrations;
(4) to administer the semi-annual CPA Examination;
(5) to administer the CPE compliance program;
(6) to adopt rules of professional ethics and conduct to be observed by CPAs in this state;
(7) to conduct administrative hearings with respect to state statutes and board rules; and
(8) to administer other provisions of G.S. 93.

(c) The board is composed of five persons who are CPAs and two persons who are not CPAs who represent the public at large. The board's staff includes an executive director who is a CPA, a deputy director, other full-time staff members and several part-time assistants.

(d) In North Carolina anyone can practice public accountancy by paying a minimal privilege license fee. However, anyone not licensed by the North Carolina Board of Examiners is restricted to only the title "accountant". Even though a person is a CPA in another state and holds a position in such fields as industry, government or education, a North Carolina cer-

tificate issued by the board must be obtained in order to use the CPA title while in this state.

Statutory Authority G.S. 93-12.

SUBCHAPTER 8F - REQUIREMENTS FOR CERTIFIED PUBLIC ACCOUNTANT EXAMINATION AND CERTIFICATE APPLICANTS

SECTION .0100 - GENERAL PROVISIONS

.0103 FILING OF EXAMINATION APPLICATIONS AND FEES

(a) The board shall announce the time and place for holding each examination at least 60 days prior to the date thereof; and all applications for examinations must be made to the board, accompanied by a check for the amount of the examination fee and made payable to the North Carolina State Board of Certified Public Accountant Examiners. If a check fails to clear the bank, the application shall be deemed incomplete and returned.

(b) Such applications shall be postmarked with proper postage not later than the last day of February for the spring examination, and not later than the last day of August for the fall examination, unless one of those dates falls on a weekend or federal holiday, in which case the application must be postmarked or received in the board office on the next business day. Only U.S. Postal Service cancellations will be considered as the postmarks.

~~(c) Applicants for initial examination will be required to submit official transcripts from their schools and experience affidavits (if required for qualifying to be examined) with their applications or have them filed by the dates set out in Paragraph (b) of this Rule.~~

(c) The initial application filed to take the examination must include supporting documentation demonstrating all legal requirements have been met such as:

(1) minimum legal age,
(2) United States citizenship,
(3) residency or domiciliary in North Carolina,
(4) education,
(5) experience, if required for qualifying to be examined, and
(6) good moral character.

(d) Any person born outside the United States must furnish to the board office evidence of citizenship; resident alien status; or other bona fide evidence the applicant is legally allowed to remain in the United States for the purposes of becoming a U.S. citizen, along with a notarized affidavit of intention to become a U.S. citizen.

(e) Official transcripts, originals (not photocopies) signed by the college registrar and bearing the college seal are required to prove education and degree requirements. A letter from the academic dean of the school may be filed to document the requirements being met; however, no examination grades will be released until an official transcript is filed confirming the information supplied in the academic dean's letter. All applicants submitting transcripts from foreign schools for consideration of degree and/or of meeting accountancy course requirements must have had the transcript(s) evaluated by a board approved educational evaluation service. Applicants are to read their transcripts to determine if they contain all the necessary required information.

(f) If experience is required for qualification to be examined, affidavits on forms supplied by the board must be prepared and signed by employers.

~~(d)~~ (g) Three ~~certificatons~~ certifications of good moral character signed by persons, not related by blood or marriage, acceptable to the board shall be submitted by the dates set out in Paragraph (b) of this Rule.

~~(e)~~ (h) All applications for reexamination must include three new certificates of moral character, which shall be signed by persons acceptable to the board. No additional statements and affidavits regarding experience and education will be required.

(i) An applicant shall include as part of the application a statement of explanation and a certified copy of court or license records if applicant has:

(1) been convicted or found guilty or pleaded nolo contendere to any felony, or to any other criminal offense of which an essential element is dishonesty, deceit, or fraud;
(2) violated Federal or state tax law;
(3) committed any act or conduct discreditable to the accountancy profession in violation of the Rules of Professional Conduct for Certified Public Accountants; or
(4) had an application for any license denied or been disciplined by any state or Federal agency.

(j) Two recent photographs are required (normally taken within the last six months). The photograph should be of the applicant alone, 2 x 2 inches in size, with an image size from bottom of chin to top of head (including

hair) of between 1 and 1-3/8 inches. Pictures should be "Passport" quality and able to withstand a mounting temperature of 225 degrees Fahrenheit. They may be in black and white or color. Snapshots and most vending machine prints are unacceptable. Applicants shall write their name on the back of their photos.

(k) If an applicant's name has legally changed and is different from the name on any transcripts or other documents supplied to the board, then the applicant shall furnish copies of documents legally authorizing the name change.

Statutory Authority G.S. 93-12(3); 93-12(4); 93-12(5).

SECTION .0400 - EXPERIENCE

.0401 GENERAL EXPERIENCE REQUIREMENTS

(a) G.S. 93-12(5) lists experience requirements required of all applicants for a CPA certificate. 21 NCAC 8F .0402 indicates the experience that is required prior to applying to take the CPA examination. 21 NCAC 8F .0409 describes acceptable teaching experience. Supervision in North Carolina under the direct supervision of a CPA will be counted only for the period of time that the supervisor was on active status.

(b) A masters or more advanced degree ~~in accounting, tax law, economics or business administration from an accredited college or university as provided in 21 NCAC 8F .0302(e) may be substituted for one year of the experience requirement specified in 21 NCAC 8F .0401(1). No other degrees~~ may be used as a ~~substitutes~~ substitute for the experience requirement as provided by G.S. 93-12(5).

~~(c) The board will accept 1,600 hours of part-time experience worked in a period exceeding 12 months as the equivalent to one year of experience. Part-time experience which totals less than 1,600 hours will not be accepted by the board. A person working less than 35 hours per week shall be deemed to be working part-time. Temporary employment shall mean working 35 hours or more per week and shall be counted in full.~~

~~(d)~~ (c) Supervision shall mean having jurisdiction (i.e. oversight authority) over the process of planning, coordinating, guiding, inspecting, controlling, and/or evaluating on a continuing basis the activities and accomplishments of the employees under his or her command; having the power of direction and decision in implementing activities to meet the objectives of his or her stewardship; having authority delegated by higher management to hire, transfer, suspend, recall, promote, assign, or discharge an employee under his or her charge or to recommend such action through the proper administrative chain of command. Direct supervision shall mean the person supervised is next below in the usual line of authority or is in a staff position reporting to the supervisor. Direct supervision also means a clear-cut personal connection to the employee being supervised, marked by a first-hand association without an intervening position of influence.

(d) Employment of less than 35 hours per week shall be deemed to be working part-time. Employment of 35 hours or more per week (including temporary employment) shall be counted in full.

(e) One thousand six hundred hours of part-time experience worked in a period exceeding 12 months is equivalent to one year of experience. The 1,600 hours shall not include hours paid for sick leave, vacation leave, attending continuing education courses or other time not directly performing accounting services.

(f) Thirty-five hours of part-time experience under the direct supervision of a CPA shall count as one week of full-time experience. One week of full-time experience shall count as 35 hours of part-time experience. However, in no event shall any combination of experience exceed 40 hours per week.

Statutory Authority G.S. 93-12(3); 93-12(5).

SUBCHAPTER 8G - PROFESSIONAL ETHICS AND CONDUCT

SECTION .0100 - GENERAL PROVISION

.0110 INELIGIBILITY DUE TO VIOLATION OF ACCOUNTANCY ACT

Any person who has engaged in conduct which the board determined constitutes a violation of the North Carolina Accountancy Act, General Statutes Chapter 93 or the rules of professional conduct established by the board, ~~shall~~ may not be eligible to take the Certified Public Accountant Examination or receive the North Carolina certificate of qualification as a certified public accountant.

Statutory Authority G.S. 93-12(5),(9).

SECTION .0200 - RESPONSIBILITIES TO CLIENTS AND COLLEAGUES

.0201 AUDITING STANDARDS

(b) The Statements on Auditing Standards issued by the American Institute of Certified Public Accountants are hereby adopted by reference, as provided by G.S. 150B-14(c), ~~as amended through December 31, 1986~~ and shall be considered generally accepted auditing standards for the purposes of 21 NCAC 8G .0201(a).

Statutory Authority G.S. 55B-12; 93-12(9).

.0202 ACCOUNTING PRINCIPLES

(c) The Statements of Financial Accounting Standards, together with those Accounting Research Bulletins and Accounting Principles Board Opinions which are not superseded by action of the Financial Accounting Standards Board, are hereby adopted by reference, as provided by G.S. 150B-14(c), ~~as amended through December 31, 1986~~ and shall be considered generally accepted accounting principles for the purposes of 21 NCAC 8G .0202(a).

Statutory Authority G.S. 55B-12; 93-12(9).

.0203 FORECASTS

(c) The Statements on Standards for Accountants' Services on Prospective Financial Information issued by the American Institute of Certified Public Accountants are adopted by reference, as provided by G.S. 150B-14(c), ~~as amended through December 31, 1986~~ and shall be considered as the approved standards for services on prospective financial information for the purposes of 21 NCAC 8G .0203(b).

Statutory Authority G.S. 55B-12; 93-12(9).

.0208 ACCOUNTING AND REVIEW SERVICES STANDARDS

(b) The Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants are hereby adopted by reference, as provided by G.S. 150B-14(c), ~~as amended through December 31, 1986~~ and shall be considered as the approved standards for accounting and review services for the purposes of 21 NCAC 8G .0208(a).

Statutory Authority G.S. 55B-12; 93-12(9).

.0209 MANAGEMENT ADVISORY SERVICES STANDARDS

(b) The Statements on Standards for Management Advisory Services issued by the American Institute of Certified Public Accountants are hereby adopted by reference, as provided by G.S. 150B-14(c), ~~as amended through December 31, 1986~~ and shall be considered as the approved standards for management advisory services for the purposes of 21 NCAC 8G .0209(a).

Statutory Authority G.S. 55B-12; 93-12(9).

.0210 RESPONSIBILITIES IN TAX PRACTICE

(b) The Statements on Responsibilities in Tax Practice issued by the American Institute of Certified Public Accountants are hereby adopted by reference, as provided by G.S. 150B-14(c), ~~as amended through December 31, 1986~~ and shall be considered as the approved standards for tax services for the purposes of 21 NCAC 8G .0210(a).

Statutory Authority G.S. 55B-12; 93-12(9).

.0211 GOVERNMENTAL ACCOUNTING STANDARDS

(b) The Statements on Governmental Accounting and Financial Reporting Standards issued by the Governmental Accounting Standards Board are hereby adopted by reference, as provided by G.S. 150B-14(c), ~~as amended through December 31, 1986~~ and shall be considered as the approved standards for governmental accounting for the purposes of 21 NCAC 8G .0211(a).

Statutory Authority G.S. 55B-12; 93-12(9).

.0212 ATTESTATION STANDARDS

(b) The Statements on Standards for Attestation Engagements issued by the American Institute of Certified Public Accountants are hereby adopted by reference, as provided by G.S. 150B-14(c), ~~as amended through September 30, 1986,~~ and shall be considered attestation standards for the purposes of 21 NCAC 8G .0212(a).

Statutory Authority G.S. 55B-12; 93-12(9).

SECTION .0400 - CONTINUING PROFESSIONAL EDUCATION

.0403 COURSE REQUIREMENTS

(a) The following shall qualify as acceptable continuing education programs, provided the programs comply with the ~~standards for ap-~~

~~proval of courses and programs~~ CPE Program Standards set forth in these ~~Regulations~~ Rules:

(1) Professional development programs of recognized national and state accounting organizations; and

(2) Technical sessions at meetings of recognized national and state accounting organizations and their chapters; and

(3) Courses taken at colleges and universities accredited by the Southern Association of Colleges and Schools, or comparable regional accrediting organizations; and

(4) Formal organized in-firm association of accounting firms education programs; and

(5) Formal correspondence courses; and

(6) Other programs or courses complying with the standards set forth in Rule .0404.

(b) The board will maintain a list of sponsors which have agreed to conduct programs in accordance with the standards set forth in these ~~regulations~~ Rules. Sponsors shall indicate agreement by signing a CPE program sponsor agreement form provided by the board. Such an agreement shall provide the board authority to audit courses offered by the sponsor to determine if the sponsor is complying with the terms of the agreement. Failure to comply with the terms of the sponsor agreement shall be grounds for the board's termination of the agreement, removal of the CPE sponsor's name from the listing described in this Rule and notifying the public of this action.

(c) Sponsors that are approved and listed in good standing on the National Registry of CPE sponsors maintained by the National Association of State Boards of Accountancy shall qualify as acceptable CPE sponsors. CPE sponsors listed on the NASBA Registry do not need to sign agreements with the board as discussed in (b) of this Rule.

Statutory Authority G.S. 93-12(8b); 150B-14.

.0404 CPE PROGRAM STANDARDS

(2) Standards for program presentation:

(f) Effective January 1, 1990, CPE course sponsors shall provide persons completing course requirements with a certificate of completion indicating the participant's name, the name of the course, the date(s) the course was held, the sponsor's name and address, and the number of CPE hours awarded and calculated in accordance with the Standards for Program measurement. Although the course sponsor has the responsibility for preparing and maintaining documentation indicating a CPA has properly completed a course, the CPA is ultimately held responsible for maintaining the certificates of completion.

(3) Standards for program measurement:

(e) Credit may be obtained for both teaching a CPE course and publishing an article or book which may be used in the course taught. However, publishing means having the item printed in a bona fide publication of general circulation or in bound form, with a proper copyright and intended for general distribution.

Statutory Authority G.S. 93-12(8b).

SUBCHAPTER 8H - RECIPROCITY

.0001 RECIPROCAL CERTIFICATES

(c) If an applicant for a reciprocal certificate does not meet all of the current requirements imposed on an applicant for original certificate, then the board will consider the following requirements to be substantially equivalent to the requirements established by G.S. 93-12 if all are met.

(1) The applicant has the unrestricted privilege to use the Certified Public Accountant title and to practice public accountancy in any state or territory of the United States, or the District of Columbia.

(2) The applicant has had four years of experience in the ~~practice of public accountancy after passing the Uniform CPA Examination~~ field of accounting under the direct supervision of a certified public accountant who held a valid license during the period of supervision in any state or territory of the United States or the District of Columbia and within ten years immediately preceding the filing date of ~~his~~ the application; or ten years experience in the field of accounting, or ten years experience teaching accounting in compliance with 21 NCAC 8F .0409, or any combination of such experience, and within twelve years immediately preceding the filing date of the application.

(3) The applicant shall have received a score of at least 75 on each part of the Uniform CPA Examination.

(4) If the applicant received the CPA certificate referred to in (1) of this Rule more than four years prior to the filing date of his application, then the applicant shall provide evidence of completion of at least 80 hours of continuing professional education, in courses meeting the requirements of 21 NCAC 8G .0404, during the two years preceding the filing date of his application.

Statutory Authority G.S. 93-12(6).

SUBCHAPTER 8J - RENEWALS AND REGISTRATIONS

.0002 SUPERVISION AND REGISTRATION OF CPA OFFICES

(a) Every office of a certified public accountant or firm of certified public accountants ~~in the public practice of accountancy~~ in North Carolina which ~~use~~ uses any words, letters, abbreviations, symbols or other means of identification to indicate that the office is engaged in the practice of public accountancy ~~accounting as a certified public accountant~~ shall be actively and locally supervised by a certified public accountant whose primary responsibility and a corresponding amount of time shall be work performed in that office. No person shall be designated as the ~~manager~~ supervisor of any such office unless he is the holder of a North Carolina certified public accountant certificate in good standing.

(b) Each individual practitioner or office supervisor shall file an office registration form with the board's office by December 31 of each year, indicating the name of the office supervisor, the location of the office and the telephone number of each office maintained within North Carolina.

(c) Changes in the above information shall be delivered to the board office within 15 days after the change occurs.

(d) One representative of the firm may file all documents with the board on behalf of all firm offices in North Carolina; however, responsibility for compliance will remain with each individual practitioner, partner or shareholder.

Statutory Authority G.S. 93-12(8a); 93-12(9).

* * * * * * * * * * * * * * * * *

Notice is hereby given in accordance with G.S. 150B-12 that the State Board of Certified Public Accountant Examiners intends to adopt, amend, and repeal regulations cited as 21 NCAC 8A .0308; 8G .0107; .0205; .0302; .0305 and .0306.

The proposed effective date of this action is April 1, 1988.

The public hearing will be conducted at 9:00 a. m. on January 9, 1988 at North Raleigh Hilton, 3415 Old Wake Forest Road, Raleigh, N. C. 27609, Telephone (919) 872-2323.

Comment Procedures: Any person interested in these rules may present oral comments relevant to the action proposed at the public rulemaking hearing or deliver written comments to the board office not later than noon on Friday, January 8, 1988. Anyone planning to attend the hearing should notify the Executive Director at the board offices by noon on Wednesday, December 30, 1987, whether they wish to speak on the proposal and whether they will speak in favor of the proposal or against it. Oral presentations will be limited to 20 minutes per speaker.

CHAPTER 8 - BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS

SUBCHAPTER 8A - DEPARTMENTAL RULES

SECTION .0300 - DEFINITIONS

.0308 HOLDING OUT TO THE PUBLIC

(a) The phrase "holds himself out to the public as a certified public accountant," as used in the definition of "public practice of accountancy" in G.S. 93-1(a)(5) and in these Rules, means any representation that a person holds a certificate of qualification, made in connection with an offer to perform or the performance of services for the public. Any such representation is presumed to invite the public to rely upon the professional skills implied by the certificate in connection with the professional services offered to be performed by the licensee. For purposes of this Rule, a representation shall be deemed to include any oral or written communication conveying the fact that the licensee holds a certificate, including without limitation the use of titles or legends on letterheads, reports, business cards, brochures, resumes, office signs, telephone directory or any other advertisements, news articles, publications, listings, tax return signatures, and signatures on experience or character affidavits for exam or certificate ap-

plicants, displayed membership in CPA associations, displayed CPA licenses from this or any other state, displayed certificates or licenses from other organizations which have the designation "CPA" or "Certified Public Accountant" by one's name.

(b) A faculty member is not considered to be in the public practice of accountancy when one uses the title "certified public accountant" for identification as a faculty member in an educational institution, for purposes of functioning in the capacity as such a faculty member.

(c) An author is not considered to be in the public practice of accountancy when one uses the title "certified public accountant" for identification as the author of a book, article or other publication, provided that such publication does not offer the performance of services, or the sale of products (other than a book, article or other publication) of any kind.

(d) A licensee is not considered to be in the public practice of accountancy when one's licensure is published in licensee or society membership directories, or included in the sale of mailing labels, or when licensure or membership status is confirmed.

Statutory Authority G.S. 93-1(a)(5); 93-12.

SUBCHAPTER 8G - PROFESSIONAL ETHICS AND CONDUCT

SECTION .0100 - GENERAL PROVISIONS

.0107 INDEPENDENCE

~~(a) A certified public accountant, or a firm of which he is a partner or shareholder, shall not express an opinion on financial statements of an enterprise unless he and his firm are independent with respect to such enterprise.~~

~~(b) Independence will be considered to be impaired if, for example:~~

~~(1) During the period of his professional engagement, or at the time of expressing his opinion, he or his firm:~~

~~(A) had or was committed to acquire any direct or material indirect financial interest in the enterprise; or~~

~~(B) was a trustee of any trust or executor or administrator of any estate if such trust or estate had or was committed to acquire any direct or material indirect financial interest in the enterprise; or~~

~~(C) had any joint closely held business investment with the enterprise or any officer, director or principal stockholder thereof which was material in relation to his or his firm's net worth; or~~

~~(D) had any loan to or from the enterprise or any officer, director or principal stockholder thereof; this latter proscription does not apply to the following loans from a financial institution when made under normal lending procedures, terms and requirements:~~

~~(i) loans obtained by him or his firm which are not material in relation to the net worth of such borrower;~~

~~(ii) home mortgages; or~~

~~(iii) other secured loans, except loans guaranteed by his firm which are otherwise unsecured.~~

~~(2) During the period covered by the financial statements, during the period of the professional engagement or at the time of expressing an opinion, he or his firm:~~

~~(A) was connected with the enterprise as a promoter, underwriter or voting trustee, a director or officer or in any capacity equivalent to that of a member of management or of an employee; or~~

~~(B) was a trustee for any pension or profit-sharing trust of the enterprise.~~

~~(c) The examples in this Rule are not intended to be all-inclusive.~~

(a) A licensee who is performing an engagement in which the licensee will issue a report on financial statements of any client (other than a report in which lack of independence is disclosed) must be independent with respect to the client in fact and appearance.

(b) Independence will be considered to be impaired if, for example, during the period of his professional engagement, or at the time of issuing his report, the licensee:

(1)

(A) had or was committed to acquire any direct or material indirect financial interest in the client; or

(B) was a trustee of any trust or executor or administrator of any estate if such trust or estate had or was committed to acquire any direct or material indirect financial interest in the client; or

(2) had any joint or closely-held business investment with the client or any officer, director or principal stockholder thereof which was material in relation to the net worth of either the client or the licensee; or

(3) had any loan to or from the client or any officer, director or principal stockholder thereof other than loans of the following kinds made by a financial in-

stitution under normal lending procedures, terms and requirements:

(A) loans obtained by the licensee which are not material in relation to the net worth of the borrower;

(B) home mortgages; and

(C) other secured loans, except those secured solely by a guarantee of the licensee.

(c) Independence will also be considered to be impaired if, during the period covered by the financial statements, during the period of the professional engagement or at the time of issuing his report, the licensee:

(1) was connected with the client as a promoter, underwriter or voting trustee, a director or officer or in any capacity equivalent to that of a member of management or of an employee; or

(2) was a trustee for any pension or profit-sharing trust of the client; or

(3) received from a third party, or had a commitment to receive from the client or a third party, with respect to services or products procured or to be procured by the client, other compensation which was material in relation to the aggregate normally - recurring fees charged annually to the client for reports on financial statements during the same period; or

(4) had a commitment from the client for a contingent fee, unless the contingent fee was clearly immaterial in relation to the aggregate normally - recurring fees charged annually to the client for reports on financial statements during the same period. For this purpose, a contingent fee means compensation for the performances of services payment of which, or the amount of which, is contingent upon the findings or results of such services.

(d) The examples in this Rule are not intended to be all-inclusive.

Statutory Authority G.S. 55B-12; 93-12(9).

SECTION .0200 - RESPONSIBILITIES TO CLIENTS AND COLLEAGUES

.0205 CONTINGENT FEES (REPEALED)

Statutory Authority G.S. 55B-12; 93-12(9).

SECTION .0300 - OTHER RESPONSIBILTIES

.0302 COMMISSIONS AND OTHER COMPENSATION

~~A certified public accountant shall not pay a commission to obtain a client, nor shall he accept a commission for a referral to a client of products or services of others. This Rule shall not prohibit payments for the purchase of an accounting practice or retirement payments to individuals formerly engaged in the practice of public accounting or payments to their heirs or estates.~~

(a) A certified public accountant shall not pay a commission to a third party to obtain a client unless, prior to being engaged by such client, the licensee discloses to the client in writing the fact and the amount of such commission.

(b) A licensee who receives or agrees to receive other compensation with respect to services or products recommended, referred or sold by him to another person shall, no later than the making of such recommendation, referral or sale, make the following disclosures to such other person in writing:

(1) if the other person is a client, the nature, source and amount of all such other compensation; and

(2) if the other person is not a client, the nature and source only of any such other compensation received from a third party. The disclosure required by this Rule shall be made regardless of the amount of the other compensation involved.

(c) This Rule does not apply to payments made by a licensee for the purchase of or received from the sale of all, or a material part, or an accounting practice or to retirement payments to persons formerly engaged in the practice of public accountancy or payments to their heirs or estates.

Statutory Authority G.S. 55B-12; 93-12(9.

.0305 NAME OR STYLE OF A PRACTICE (REPEALED)

Statutory Authority G.S. 55B-12; 93-12(9).

.0306 FIRM NAME OR STYLE OF A PRACTICE

~~A certified public accountant shall not practice under a name or style of practice other than his own name or that of his inactive or deceased partners or shareholders who were certified public accountants. However, names of one or more past partners or shareholders may be included in the firm name of a successor partnership or corporation. A partner or~~

~~shareholder surviving the death or withdrawal of all partners or shareholders may continue to practice under the partnership or professional association name for up to two years after becoming a sole practitioner.~~

(a) A certified public accountant shall not practice public accountancy using a name or designation that is misleading about the legal form of the firm, or about the persons who are partners, officers, or shareholders of the firm, or about any other matters, provided, however, that names of one or more past partners or shareholders may be included in the firm name of a successor partnership or corporation.

(b) It shall not be deemed misleading for a partner or shareholder surviving the death or withdrawal of all partners or shareholders to continue to practice under the partnership or professional association name for up to two years after becoming a sole practitioner.

(c) No firm having only one owner licensed as a certified public accountant by the board may have as a part of its name the words "associates," "company" or their abbreviations.

Statutory Authority G.S. 55B-12; 93-12(9).

* * * * * * * * * * * * * * * * *

Notice is hereby given in accordance with G.S. 150B-12 that the N.C. Board for Licensing of Geologists intends to amend regulations cited as 21 NCAC 21 .0106(7); .0107(5)(10); .0301(b)(f); and .0302(f).

The proposed effective date of this action is March 1, 1988.

The public hearing will be conducted at 10:00 a.m. on December 18, 1987 at 5th Floor Conference Room, Archdale Building, Land Resources Division, 512 N. Salisbury Street, Raleigh, N. C. 27611.

Comment Procedures: Interested persons may present their views either orally or in writing at the hearing. In addition, the record of the hearing will be open for receipt of written comments from November 17, 1987, to 5:00 p.m. on December 17, 1987. Such written comments must be delivered or mailed to Stephen Conrad, N. C. Board of Licensing for Geologists, 512 N. Salisbury St., Raleigh, N. C. 27611.

CHAPTER 21 - GEOLOGISTS

SECTION .0100 - STATUTORY AND ADMINISTRATIVE PROVISIONS

.0106 FORMS

Forms used by the board, and available from the board office upon request, include the following:

(1) Application for Licensing as a Geologist,
(2) Application for Examination,
(3) Application for License by Reciprocity,
(4) Application for Renewal of License,
(5) Application for Replacement of License, and
(6) Application for Reinstatement of License.
~~(7) Application for Geologist in Training.~~

Statutory Authority G.S. 89E-8; 89E-10; 89E-11; 89E-12(a); 89E-12(b).

.0107 FEES

(a) Completed application forms must be accompanied by the prescribed fee. Application fees will not be refunded regardless of board approval or disapproval of the application. Prescribed application fees shall be:

(1)	application forms, including a copy of the Act and Rules:	$ 5.00
(2)	application for license:	$50.00
(3)	admission to examination:	$25.00
(4)	application for reciprocity:	$50.00
~~(5)~~	~~annual renewal of license:~~	~~$25.00;~~
(5)	biennial renewal of license:	$70.00
(6)	biennial renewal of license of N. C. resident geologists practicing less than 15 days per year: ~~$15.00~~	$30.00
(7)	application for replacement of license:	$10.00
(8)	application for reinstatement of license:	$50.00
(9)	licensed geologist stamp and seal: cost +	$ 5.00
~~(10)~~	~~application for geologist in training:~~	~~$35.00~~

(b) If the applicant is approved for admission to the examination, the candidate will be admitted to the examination upon payment in advance of an examination fee.

(c) All licenses will expire ~~annually~~ biennially on July 1. ~~Annual~~ Biennial renewal fees received after July 1 and before September 1 of ~~each~~ the year due shall be subject to the assessment of a late payment penalty of ten dollars ($10.00).

(d) Licenses that have not been renewed by September 1st may only be renewed by filing

a reinstatement application and submitting a reinstatement fee.

Statutory Authority G.S. 89E-5(g); 89E-12.

SECTION .0300 - LICENSING OF GEOLOGISTS

.0301 REQUIREMENTS FOR LICENSING

(a) Education - In determining whether an applicant meets the minimum education requirements of the act, the board is authorized to determine which colleges and universities are properly accredited, and which geologic science courses qualify for meeting the minimum requirements.

~~(b) Experience - At least seven years of professional geological work are required which shall include a minimum of three years of professional geological work under the supervision of a qualified geologist, or a minimum of three cumulative years work in responsible charge of geological work satisfactory to the board. The following criteria of education and experience qualify as specified toward accumulation of the required seven years of professional geological work:~~

~~(1) Each full year of undergraduate study in the geological sciences shall count as one-half year of training up to a maximum of two years, and each year of graduate study shall count as one year of work.~~

~~(2) Credit for undergraduate study, graduate study, graduate courses, individually or in any combination thereof, shall in no case exceed a total of four years toward meeting the requirements for at least seven years of professional geological work as set forth in this Rule.~~

~~(3) The board may consider in lieu of professional geological work, the cumulative total of geological work or geological research of persons teaching upper level geology courses at the college or university level, provided such work or research can be demonstrated to be of a sufficiently responsible nature to be equivalent to the professional requirements described herein.~~

~~(4) The ability of the applicant shall have been demonstrated by his having performed the work in a responsible position as determined by the board.~~

~~(c)~~ (b) References - Three letters of reference submitted to the board which shall satisfy the board as to the character, reputation, responsibility, integrity and competence of the applicant. These letters of reference must be submitted by licensed or qualified geologists or professional engineers. No member of the board shall act as a reference for any applicant for licensing.

~~(d)~~ (c) Written Examination - A written examination approved by the board shall be required of all applicants after August 15, 1986. The passing grade on any written examination for licensing shall be established by the board. The applicant shall be notified, not less than 30 days before the examination, as to the time and place of the examination. A person who has failed an examination is allowed to take the examination again at the next regularly scheduled examination period. A person having a record of three failures and/or unexcused absences will not be allowed to take that examination again until a written appeal is made to the board and qualifications for examination are reviewed and reaffirmed by the board. The applicant must demonstrate to the board that actions have been taken to improve the applicant's possibility of passing the exam.

~~(e)~~ (d) Certificate by reciprocity:

(1) The board, within its discretion, may grant a license, by reciprocity, to a person holding a license or certificate in good standing of registration in geology from any legally constituted board of examiners in another state whose licensing, registration and requirements are deemed to be equal or equivalent to those of this state.

(2) To assure that the requirements of the other state are at least equivalent to those of this state, the applicant shall be required to show evidence of education and experience equal to those required of geologists licensed in this state who seek a license by examination as set out in Rules .0301 and .0302 of this Section.

(3) If a person is duly licensed to practice geology in another state where the requirements for a license, or certificate, are not lower than those specified by the board, that person may practice geology in this state provided such practice does not exceed more than 90 days in any one calendar year; and provided that such person shall file with the board within ten days of entering this state for commencing of such work, a statement giving his name, residence, the number of his license, and by what authority issued, and upon the completion of the work, a statement of the

time engaged in such work within the state.

(4) The board may issue a provisional license to practice geology in the state to a person who has recently become a resident here or if he is licensed in another state or qualified as defined herein, if he shall have filed with the board an application for a license and shall have paid the required fee.

~~(f) Geologist-in-training - A person who fails to meet the minimum geologic experience requirements of Rule .0301(b) of this Section but who passes the examination of Rule .0301(d) of this Section will be issued a letter from the board indicating that he is a Geologist-In-Training.~~

Statutory Authority G.S. 89E-7(2)(3) 89E-11.

.0302 APPLICATION PROCEDURE

(a) All applicants for licensing, except those applying under comity, are required to furnish with their applications the following:

(1) A legible official copy of their college transcript(s), and verification of graduation sent directly from the institution to the board;

(2) A record of experience in the practice of geology;

(3) Three references as defined in Rule .0301(c) of this Section;

(4) A notarized copy of a completed application form as prescribed by the board; and

(5) The application fee as prescribed in Rule .0107(a) of this Chapter.

(b) If an examination is required, the board shall notify the applicant in writing at least 30 days in advance of the time and location of the examination.

(c) Applicants for licensing under comity shall submit an application form as prescribed by the board along with the fee as provided in Rule .0107(a)(4) of this Chapter. The board may require the submittal of additional information.

(d) Applicants for reinstatement of an expired license shall submit a reinstatement application and the prescribed fee.

(e) Applicants for reinstatement of a revoked or suspended license shall submit such information as is required by the board, on a case-by-case basis, to determine his eligibility for reinstatement, and shall submit the fee as provided by Rule .0107(a)(8) of this Chapter.

~~(f) Applicants for Geologist-in-training shall submit all application materials and fees required for application for licensing. Upon passing an examination, the board shall issue a Geologist-in-training letter to the applicant. Upon completion of the minimum experience requirements of Rule .0301(b) of this Section the applicant may submit an application for license. If the board finds that the applicant then meets all of the requirements for licensing, the applicant shall be issued a license.~~

~~(g)~~ (f) Applicants for renewal of license who practice geology less than 15 days per year must submit a notarized affidavit that they have practiced geology in North Carolina less than 15 days during the past year and that they will practice less than 15 days in each of the coming two ~~year~~ years. If a licensed geologist in fact practices 15 or more days per year in North Carolina, he shall submit to the board the balance of the fee prescribed for full licensing in Rule .0107(a)(5) of this Chapter.

Statutory Authority G.S. 89E-8.

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Notice is hereby given in accordance with G.S. 150B-12 that the State Board of Refrigeration Examiners intends to adopt, amend, repeal regulations cited as 21 NCAC 60 .0102; .0103; .0205; .0207; .0208; .0301; .0302; .0303; .0305; .0309; .0311; .0312; .0401; .0402; .0403; .0404; .1103 and .1104.

The proposed effective date of this action is February 1, 1987.

The public hearing will be conducted at 11:00 a.m. on December 18, 1987 at the Board Office, 323 West Morgan Street, Suite 107, Raleigh, North Carolina.

Comment Procedures: Written comments may be mailed to State Board of Refrigeration Examiners, P. O. Box 10553, Raleigh, North Carolina 27605.

CHAPTER 60 - BOARD OF REFRIGERATION EXAMINERS

SECTION .0100 - ORGANIZATION

.0102 OFFICE OF THE BOARD

The board's office is located at 323 West Morgan Street, Raleigh, North Carolina. The board's mailing address is P. O. Box 10553, Raleigh, North Carolina 27605. ~~The board's~~

~~office hours are from 8:30 a.m. to 12:00 noon.~~ The board's rules are available for inspection at this office during regular office hours. The materials used in rule making decisions will be available for inspection at said office.

Statutory Authority G.S. 87-54; 150B-10.

.0103 RULE-MAKING AND ADMINISTRATIVE HEARING PROCEDURE

(a) ~~The Model Administrative Procedures for Rule-Making and Hearings, codified as Title 22, Subchapters 2B and 2C of the North Carolina Administrative Code, effective September 29, 1980, are hereby adopted by reference. In applying 22 NCAC 2, Subchapters 2B and 2C, to this board, the definitions contained in 22 NCAC .0005 shall apply, as modified herein:~~

~~(1) "Agency" means the Board of Refrigeration Examiners.~~

~~(2) "Agency address" means:~~

~~Board of Refrigeration Examiners~~
~~Post Office Box 10553~~
~~Raleigh, North Carolina 27605~~

~~(3) "Agency head"~~

~~(A) In a context relating to substantive decision-making authority, or final agency decisions, "agency head" means the Board.~~

~~(B) In a context granting administrative authority, "agency head" means the Executive Secretary.~~

Administrative Hearing Procedures as set forth in Article 3A of Chapter 150B of the General Statutes of North Carolina as amended by Chapter 878, Session Laws of 1987 will be followed.

(b) ~~Copies of 22 NCAC Subchapters 2Band 2C, and 22 NCAC 2A .0005 may be inspected in the Office of the Board of Refrigeration Examiners, 323 West Morgan Street, Raleigh, North Carolina. Copies may be obtained from the board or from the Administrative Procedures Section of the Attorney General's Office, 10 East Jones Street, Raleigh, North Carolina, for a charge of four dollars ($4.00).~~ Rule-Making Procedures as set forth in Article 2 of Chapter 150B of the General Statutes of North Carolina, as amended by Chapter 285, Session Laws of 1987 will be followed.

(c) With respect to rules governing the conduct of hearings, the rules establishing procedures for contested cases adopted by the Office of Administrative Hearings as contained in Title 26, Chapter 3 of the North Carolina Administrative Code are hereby adopted by reference, as provided for in G.S. 150B-14(c), for contested cases for which this agency has authority to adopt rules under G.S. 150B-38(h). Provided, however, that if the case is conducted under G.S. 150B-40(b), the presiding officer shall have the powers and duties given to the Chief Administrative Law Judge of the presiding Administrative Law Judge in Title 26, Chapter 3 of the North Carolina Administrative Code and that 26 NCAC 3 .0001(2); .0002(a)(1); .0003(b); .0025; and .0026 shall not apply.

Statutory Authority G.S. 87-54; 150B-38 et seq.; 150B-9 et seq.; 150B-38(h); 150B-14(a)(4).

SECTION .0200 - EXAMINATIONS

.0205 RENEWAL AND REINSTATEMENT FEES (REPEALED)

Statutory Authority G.S. 87-54; 87-64.

.0207 REQUIREMENTS FOR EXAMINATION APPLICANTS

(a) An applicant shall be eligible to take the examination upon:

(1) Filing with the board an application, on a form provided by the board, together with the combined examination license fee. This fee is to be refunded to an applicant only if his application is withdrawn at least two business days prior to the scheduled examination.

(2) Including on his application form satisfactory verification that he is at least eighteen years of age.

(3) Furnishing with his application information satisfactorily verifying that he has acquired at least 2000 hours of refrigeration experience gained while engaged actively and directly in the installation, maintenance, servicing and repairing of commercial, industrial or institutional refrigeration equipment. Qualifying experience must be acquired while working a minimum of 2000 hours under the supervision of a person holding a valid refrigeration contractor's license, registered professional engineer or equivalent prior to filing the application.

(b) The deadline for receipt of applications for a regular examination shall be six weeks prior to the examination date. If an application is received after the published deadline, it shall be returned to the applicant with his de-

posit, and he shall be notified that he may apply for and take the next examination. The board, at its discretion, may choose to waive this requirement in extenuating circumstances.
(c) If a person files an application for examination which is accepted, takes and fails the examination, his verification of refrigeration experience is kept and is sufficient for taking any future examination, provided he files another application accompanied by the required fee.

Statutory Authority G.S. 87-54; 87-57; 87-58; 87-64; 93B-9; 94-6; 150B-2; 150B-3; 150B-10.

.0208 EXAMINATION REVIEW
The board shall schedule an examination review session to be held approximately one month following notification of the results of each regular examination. This review session will be attended by at least two board members and will be the only review opportunity available. All persons who fail the examination shall be notified of this review session.

Statutory Authority G.S. 87-54; 87-58(d).

SECTION .0300 - PUBLICATIONS AND FORMS

.0303 REFRIGERATION LAW: PLUG-IN DEVICES
~~(a) This board prints, in booklet form, copies of the Refrigeration Law, G.S. 87, Article 5. A copy of this law is sent to each applicant for a refrigeration examination and to any other persons who request copies of same.~~
~~(b)~~ Only refrigeration appliances and equipment which are shipped from the manufacturer equipped or packaged with a cord and attachment plug suitable for plugging into permanently installed receptacles shall be defined as plug-in refrigeration equipment and exempt from the provisions of G.S. 87, Article 5.

Statutory Authority G.S. 87-54; 87-57; 87-58; 150B-11(2).

.0301 REGISTER OF LICENSEES (REPEALED)
.0302 DESCRIPTION OF FORMS (REPEALED)
.0305 FORM: RENEWAL APPLICATION (REPEALED)
.0309 FORM: REINSTATEMENT APPLICATION (REPEALED)

Statutory Authority G.S. 87-54; 87-64; 150B-11; 150B-11(1).

.0311 PERMITS
(a) The qualifying license number of the licensee shall appear on all permits as issued by a municipality.
(b) A licensed contractor shall obtain permits and allow his number to appear on permits only for work over which he will provide general supervision until the completion of the work, and for which he holds the contract.

Statutory Authority G.S. 87-54; 87-58(g).

.0312 EXPIRATION OF LICENSES
During the period of time an individual licensed under G.S. 87, Article 5 is employed full time by a unit of local government as an inspector and holds a valid certificate from the North Carolina Code Officials Qualification Board, his license shall not be deemed expired for the purposes of reexamination under G.S. 87-64, despite the non-payment of renewal fees; provided that this Rule does not authorize contracting within the meaning of G.S. 87-57 by any individual licensee actively employed as an inspector as defined herein.

Statutory Authority G.S. 87-54; 87-57; 150B-2; 150B-3.

SECTION .0400 - BOARD PERSONNEL

.0401 SUPERVISION OF STAFF (REPEALED)
.0402 QUALIFICATIONS FOR EMPLOYMENT (REPEALED)
.0403 SALARY REVIEW COMMITTEE (REPEALED)
.0404 SALARY AND FRINGE BENEFITS (REPEALED)

Statutory Authority G.S. 87-54; 150B-11; 150B-11(1).

SECTION .1100 - DISCIPLINARY ACTION

.1103 PRELIMINARY DETERMINATION
(f) After all preliminary evidence has been received by the review committee it shall make a preliminary determination of the charges filed against the refrigeration contractor. From the evidence it may recommend to the board that:
(1) the charges be dismissed as unfounded, frivolous, trivial; or
(2) when the charge is admitted by the respondent or the evidence warrants, the board ~~shall accept the respondent's admission of guilt and~~ may issue a reprimand and order the respondent not to commit in the future the specific act or acts admitted by him to have been in violation of any of the provisions of

G.S. 87-59, 87-57, or 87-63. In connection with any such reprimand and subsequent order, the board may also provide that in the event the respondent is determined to have violated in the future any of the provisions of the aforementioned statutes, the board may suspend or revoke his license as proscribed by law.

~~(3) the charge or charges, whether admitted or denied, be presented to the full Board for hearing and determination by the Board on the merits of the charge or charges in accordance with the substantive and procedural requirements of G.S. 87-59 and Article 3 of Chapter 150A of the General Statutes of North Carolina and Administrative Rules adopted by the Board pursuant thereto.~~

Statutory Authority G.S. 87-57; 87-59; 87-63; 150B-11(1); 150B-22.

.1104 JUDICIAL REVIEW

~~If the respondent~~ Any person who is aggrieved by the final decision of the board in a contested case as defined in Chapter 150B-1 of the General Statutes ~~he may appeal for a judicial review~~ shall be entitled to Judicial Review as provided by ~~Article 4 of Chapter 150A~~ G.S. 150B-43 of the General Statutes of North Carolina.

Statutory Authority G.S. 87-59; 87-63; 150B-11(1); 150B-43.

Upon request from the adopting agency, the text of rules will be published in this section.

When the text of any adopted rule is identical to the text of that as proposed, adoption of the rule will be noted in the "List of Rules Affected" and the text of the adopted rule will not be republished.

Adopted rules filed by the Departments of Correction, Revenue and Transportation are published in this section. These departments are not subject to the provisions of G.S. 150B, Article 2 requiring publication of proposed rules.

TITLE 10 - DEPARTMENT OF HUMAN RESOURCES

CHAPTER 45 - NORTH CAROLINA DRUG COMMISSION

SUBCHAPTER 45H - DRUG TREATMENT FACILITIES

SECTION .0200 - SCHEDULES OF CONTROLLED SUBSTANCES

.0202 SCHEDULE I

(a) Schedule I shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name or brand name designated listed in this Rule. Each drug or substance has been assigned the Drug Enforcement Administration controlled substances code number set forth

(b) Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts and salts of isomers, esters and ethers whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation:

(1) Acetyl-alpha -methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide)	9815
(2) Acetylmethadol	9601
(3) Allylprodine	9602
(4) Alphacetylmethadol	9603
(5) Alphameprodine	9604
(6) Alphamethadol	9605
(7) Alpha-methylfentanyl (N-[1-(alpha-methyl beta-phenyl) ethyl-4-piperidyl] propionanilide: 1-(1-methyl -2-phenylethyl) -4-(N-propanilido) piperidine)	9814
(8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl) ethyl-4-piperidinyl]-N-phenylpropanamide)	9832
(9) Benzethidine	9606
(10) Betacetylmethadol	9607
(11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl) -4-piperidinyl]-N-phenylpropanamide)	9830
(12) Betameprodine	9608
(13) Betamethadol	9609
(14) Betaprodine	9611
(15) Clonitazene	9612
(16) Dextromoramide	9613
(17) Diampromide	9615
(18) Diethylthiambutene	9616
(19) Difenoxin	9168
(20) Dimenoxadol	9617
(21) Dimepheptanol	9618
(22) Dimethylthiambutene	9619
(23) Dioxaphetyl butyrate	9621
(24) Dipipanone	9622
(25) Ethylmethylthiambutene	9623
(26) Etonitazene	9624
(27) Etoxeridine	9625
(28) Furethidine	9626
(29) Hydroxypethidine	9627
(30) Ketobemidone	9628
(31) Levomoramide	9629
(32) Levophenacylmorphan	9631
(33) 3-Methylfentanyl (N-[-methyl-1-(2-phenylethyl)-4-piperidyl] -N-phenylpropanamide)	9813
(34) 3-methylthiofentanyl (N-[(3-methyl-1-(2-thienyl) ethyl-4-piperidinyl]-N-phenylpropanamide)	9833
(35) 1-methyl-4-phenyl-4-propionoxypiperidine (MPPP)	9661
(36) 1-(2-phenethyl)-4-phenyl -4-acetoxy-piperidine (PEPAP)	9663
(37) Morpheridine hydroxyfentanyl), its optical isomers, salts and	9632
(38) N-[1-(2-thienyl)methyl -4-piperidyl]-N-phenylpropanamide (thenylfentanyl), its optical isomers, salts and salts of isomers	9834

(39) N-[3-methyl-1-(2-hydroxy-2-phenyl)ethyl-4-piperidyl]-N-phenylpropanamide (beta-hydroxy-3-methylfentanyl), its optical and geometric isomers, salts and salts of isomers 9831

(40) N-[1-benzyl-4-piperidyl] -N-phenylpropanamide (benzylfentanyl), its optical isomers, salts and salts of isomers 9818

(41) Noraeymethadol 9633

(42) Norleyorphanol 9634

(43) Normethadone 9635

(44) Norpipanone 9636

(45) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1 -(2-phenethyl)-4-piperidinyl] -propanamide) 9812

(46) Phenadoxone 9637

(47) Phenampromide 9638

(48) Phenomorphan 9647

(49) Phenoperidine 9641

(50) Piritramide 9642

(51) Proheptazine 9643

(52) Properidine 9644

(53) Propiram 9649

(54) Racemoramide 9645

(55) Thiofentanyl (N-phenyl-N -[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide) 9835

(56) Tilidine 9750

(57) Trimeperidine 9646

(c) Opium Derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Acetorphine 9319

(2) Acetyldihydrocodeine 9051

(3) Benzylmorphine 9052

(4) Codeine methylbromide 9070

(5) Codeine-N-Oxide 9053

(6) Cyprenorphine 9054

(7) Desomorphine 9055

(8) Dihydromorphine 9145

(9) Etorphine (except hydrochloride salt) 9056

(10) Heroin 9200

(11) Hydromorphinol 9301

(12) Methyldesorphine 9302

(13) Methyldihydromorphine 9304

(14) Morphine methylbromide 9305

(15) Morphine methylsulfonate 9306

(16) Morphine-N-Oxide 9307

(17) Myrophine 9308

(18) Nicocodeine 9309

(19) Nicomorphine 9312

(20) Normorphine 9313

(21) Pholcodine 9314

(22) Thebacon 9315

(23) Drotebanol 9335

(d) Hallucinogenic Substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers and salts of isomers, whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation (for purposes of this Paragraph only, the term "isomer" includes the optical, position and geometric isomers):

(1) 3,4-methylenedioxy amphetamine 7400

(2) 5-methoxy-3,4-methylenedioxy-amphetamine 7401

(3) 3,4,5-trimethoxy amphetamine 7390

(4) Bufotenine 7433
Some trade and other names: 3-(B-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N,N-dimethylserotonin; 5-hydroxy-N, N-dimethyltryptamine; mappine.

(5) Diethyltryptamine 7434
Some trade and other names: N,N-Diethyltryptamine; DET

(6) Dimethyltryptamine 7435
Some trade and other names: DMT

(7) 3,4-methylenedioxy-methamphetamine (MDMA) its optical, positional and geometric isomers, salts, and salts of isomers 7405

(8) 4-methyl-2,5-dimethoxy-amphetamine 7395
Some trade or other names: 4-methyl-2.5-dimethoxy-a-methylphenethylamine; "DOM" and "STP."

(9) Ibogaine 7260
Some trade and other names: 7-Ethyl-6,6B,7,8,9,10,12,13 -octahydro-2-methoxy-6,9-methano-5H-pyrido (1,2′: 1,2) azepino (5,4-b) indole; tabernanthe iboga.

(10) Lysergic acid diethylamide Some trade or other names: LSD	7315
(11) Mescaline	7381
(12) N-ethyl-l-phenylcyclohexylamine	7455 7455
(13) l-(l-phenylcyclohexyl) pyrrolidine	7458
(14) Parahexyl Some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d] pyran; Synhexyl.	7374
(15) Peyote -- meaning all parts of the plant presently classified botanically as Lophophora Williamsii Lemaire, whether growing or not; the seeds thereof; any extract from any part of such plant; and every compound, manufacture, salt, derivative, mixture or preparation of such plant, its seed or extracts.	7415
(16) N-ethyl-3-piperidyl benzilate	7482
(17) N-methyl-3-piperidyl benzilate	7484
(18) Psilocybin	7437
(19) Psilocyn	7438
(20) 2,5-dimethoxyamphetamine Some trade and other names: 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA.	7396
(21) 4-bromo-2,5-dimethoxy-amphetamine Some trade or other names: 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA.	7391
(22) 4-methoxyamphetamine Some trade or other names: 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine; PMA.	7411
(23) Thiophene analog of phencyclidine Some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine; 2-thienyl analog of phencyclidine; TPCP, TCP.	7470

(e) Depressants. Unless specifically excepted or unless listed in another schedule, any material compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) mecloqualone	2572
(2) methaqualone	2565

(f) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(1) Fenethylline	1503
(2) N-ethylamphetamine	1475

History Note: Statutory Authority G.S. 90-88; 90-89; 143B-147; Eff. June 30, 1978; Amended Eff. December 1, 1987; August 1, 1987; December 1, 1986; July 1, 1986.

.0203 SCHEDULE II

(a) Schedule II shall consist of the drugs and other substances by whatever official name, common or usual name, chemical name or brand name and designated listed in this Rule. Each drug or substance has been assigned the Drug Enforcement Administration controlled substances code number set forth opposite it.

(b) Substances, Vegetable Origin or Chemical Synthesis. Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from the substances of vegetable origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis:

(1) opium and opiate, and any salt, compound, derivative or preparation of opium or opiate, excluding apomorphine, nalbuphine, dextrorphan, naloxone, naltrexone, and nalmefene and their respective salts but including the following:

(A) Raw opium	9600
(B) Opium extracts	9610
(C) Opium fluid extracts	9620
(D) Powdered opium	9639
(E) Granulated opium	9640
(F) Tincture of opium	9630
(G) Codeine	9050
(H) Ethylmorphine	9190

(I) Hydrocodone 9193
(J) Hydromorphine 9150
(K) Metopon 9260
(L) Morphine 9300
(M) Oxycodone 9143
(N) Oxymorphone 9652
(O) Thebaine 9333
(P) Etorphine hydrochloride 9059

(2) any salt, compound, derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in Subparagraph (1) of this Paragraph (b), except that these substances shall not include isoquinoline alkaloids of opium;

(3) opium poppy and poppy straw 9650

(4) coca leaves (9040) and any salts, compound, derivative or preparation of coca leaves and any salt, compound, derivative or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine (9041) or ecgonine (9180);

(5) concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrine alkaloids of the opium poppy) (9670).

(c) Opiates. Unless specifically excepted or unless in another schedule any of the following opiates, including its isomers, esters, ethers, salts and salts of isomers, esters and ethers whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation, dextrorphan excepted:

(1) Alfentanil 9737
(2) Alphaprodine 9010
(3) Anileridine 9020
(4) Benzitramide 9800
(5) Dihydrocodeine 9120
(6) Diphenoxylate 9170
(7) Fentanyl 9801
(8) Isomethadone 9226
(9) Levomethorphan 9210
(10) Levorphanol 9220
(11) Metazocine 9240
(12) Methadone 9250
(13) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane 9254
(14) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid 9802
(15) Pethidine(meperidine) 9230
(16) Pethidine-Intermediate-A,4-cyano-1-methyl-4-phenylpiperidine 9232
(17) Pethidine-Intermediate -B, ethyl-4-phenylpiperidine -4-carboxylate 9233
(18) Pethidine-Intermediate -C,1-methyl-4-phenylpiperidine-4-carboxylic acid 9234
(19) Phenazocine 9715
(20) Piminodine 9730
(21) Racemethorphan 9732
(22) Racemorphan 9733
(23) Sufentanil 9740

(d) Stimulants. Unless specifically excepted or unless listed in another schedule any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers 1100
(2) Methamphetamine, its salts, isomers and salts of its isomers 1105
(3) Phenmetrazine and its salts 1631
(4) Methylphenidate 1724
(5) Nabilone 7379
[Another name for nabilone: (plus or minus)trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro -1-hydroxy-6,6-dimethyl -9H-dibenzo[b,d]pyran-9-one].
(6) Phenylacetone 8501
Some trade or other names:
Phenyl-2-propanone;
P2P;
benzyl methyl Ketone;
methyl benzyl Ketone;
(7) Phencyclidine 7471
(A) 1-Phenylcyclohexylamine 7460
(B) 1-Piperidinocyclohexane -carbonitrile (PCC) 8603

(e) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture of preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Amobarbital 2125
(2) Pentobarbital 2270
(3) Secobarbital 2315
(f) Hallucinogenic Substances.
Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved drug product 7369
[Some other names for dronabinol: [(6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d] pyran-1-o1],or(-)-delta-9-(trans)- tetrahydrocannabinol]

History Note: Statutory Authority G.S. 90-88; 90-90; 143B-147; Eff. June 30, 1978; Amended Eff. December 1, 1987; August 1, 1987; December 1, 1986; April 1, 1986.

.0204 SCHEDULE III

(a) Schedule III shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this Rule. Each drug or substitute has been assigned the Drug Enforcement Administration controlled substances code number set forth opposite it.

(b) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(1) Those compounds, mixtures or preparations in dosage unit form containing any stimulant substances which are currently listed as excepted compounds under Section 9.32 and anyother drug of the quantitative composition shown in that list of those drugs or which is the same except that it contains a lesser quantity of controlled substances 1405
(2) Benzphetamine 1228
(3) Chlorphentermine 1645
(4) Clortermine 1647
(5) Phendimetrazine 1615

(c) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on

(1) Any compound, mixture or preparation containing:
(A) Amobarbital 2126
(B) Secobarbital 2316
(C) Pentobarbital 2271
or any salt thereof and one or more active medicinal ingredients which are not listed in any schedule;
(2) Any suppository dosage form containing:
(A) Amobarbital 2126
(B) Secobarbital 2316
(C) Pentobarbital 2271
or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository;
(3) Any substance which contains any quantity of a derivative of barbituric acid or any salt thereof 2100
(4) Chlorhexadol 2510
(5) Glutethimide 2550
(6) Lysergic acid 7300
(7) Lysergic acid amide 7310
(8) Methyprylon 2575
(9) Sulfondiethylmethane 2600
(10) Sulfonethylmethane 2605
(11) Sulfonmethane 2610
(12) Tiletamine and zolazepam or any salt thereof- 7295
Some trade or other names for a tiletamine-zolazepam combination product: Telazol.
Some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl) -cyclohexanone.
Some trade or other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo -[3,4-e] [1,4]-diazepin-7 (1H)-one. flupyrazapon.

(d) Nalorphine (a narcotic drug) 9400

(e) Narcotic Drugs. Unless specifically excepted or unless in another schedule, any material compound, mixture or preparation containing limited quantities of any of the following narcotic drugs or any salts thereof:

(1) not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium--9803;

(2) not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts--9804;
(3) not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit with a fourfold or greater quantity of an isoquinoline alkaloid of opium--9805;
(4) not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit with one or more active nonnarcotic ingredients in recognized therapeutic amounts--9806;
(5) not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit with one or more active nonnarcotic ingredients in recognized therapeutic amounts--9807;
(6) not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit with one or more active nonnarcotic ingredients in recognized therapeutic amounts--9808;
(7) not more than 500 milligrams of opium per 100 milliliters or per 100 grams or no more than 25 milligrams per dosage unit with one or more active nonnarcotic ingredients in recognized therapeutic amounts--9809;
(8) not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active nonnarcotic ingredients in recognized therapeutic amounts--9810.

History Note: Statutory Authority G.S. 90-88; 90-91; 143B-147; Eff. June 30, 1978; Amended Eff. December 1, 1987; August 1, 1987; July 1, 1982.

.0205 SCHEDULE IV

(a) Schedule IV shall consist of the drugs and other substances by whatever official name, common or usual name, chemical name or brand name designated listed in this Rule. Each drug or substance has been assigned the Drug Enforcement Administration controlled substances code number set forth opposite it.

(b) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(1)	Alprazolam	2882
(2)	Barbital	2145
(3)	Bromazepam	2748
(4)	Camazepam	2749
(5)	Chloral betaine	2460
(6)	Chloral hydrate	2465
(7)	Chlordiazepoxide	2744
(8)	Clobazam	2751
(9)	Clonazepam	2737
(10)	Clorazepate	2768
(11)	Clotiazepam	2752
(12)	Cloxazolam	2753
(13)	Delorazepam	2754
(14)	Diazepam	2765
(15)	Estazolam	2756
(16)	Ethchlorvynol	2540
(17)	Ethinamate	2545
(18)	Ethyl loflazepate	2758
(19)	Fludiazepam	2759
(20)	Flunitrazepam	2763
(21)	Flurazepam	2767
(22)	Halazepam	2762
(23)	Haloxazolam	2771
(24)	Ketazolam	2772
(25)	Loprazolam	2773
(26)	Lorazepam	2885
(27)	Lormetazepam	2774
(28)	Mebutamate	2800
(29)	Medazepam	2836
(30)	Meprobamate	2820
(31)	Methohexital	2264
(32)	Methylphenobarbital (mephobarbital)	2250
(33)	Midazolam	2884
(34)	Nimetazepam	2837
(35)	Nitrazepam	2834
(36)	Nordiazepam	2838
(37)	Oxazepam	2835
(38)	Oxazolam	2839
(39)	Paraldehyde	2585
(40)	Petrichloral	2591
(41)	Phenobarbital	2285
(42)	Pinazepam	2883
(43)	Prazepam	2764
(44)	Quazepam	2881
(45)	Temazepam	2925
(46)	Tetrazepam	2886
(47)	Triazolam	2887

(c) Fenfluramine. Any material compound, mixture or preparation which contains any of the following substances including its salts, isomers (whether optical, position or geometric) and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible:

Fenfluramine 1670

(d) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or other preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Diethylpropion 1610
(2) Mazindol 1605
(3) Phentermine 1640
(4) Pemolin (including organometallic complexes and chelates thereof) 1530

(e) Other Substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substance, including its salts:

(1) Pentazocine 9709
(2) Pipradrol 1750
(3) SPA [(-)-1-dimethylamino -1,2-diphenylethane] 1635

(f) Narcotic Drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation containing limited quantities of any of the following narcotic drugs, or any salt thereof:

(1) not more than one milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit, 9167
(2) Dextropropoxyphene (alpha -(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane), 9278
(3) Buprenorphine 9064

History Note: Statutory Authority G.S. 90-88; 90-92; 143B-147; Eff. June 30, 1978; Amended Eff. December 1, 1987; August 1, 1987; December 1, 1986; August 1, 1985.

.0206 SCHEDULE V

(a) Schedule V shall consist of the drugs and other substances by whatever official name, common or usual name, chemical name or brand name designated, listed in this Rule.

(b) Narcotic Drugs Containing Nonnarcotic Active Medicinal Ingredients. Any compounds, mixture or preparation containing any of the following limited quantities or narcotic drugs or salts thereof which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) not more than 200 milligrams of codeine per 100 milliliters or per 100 grams,
(2) not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams,
(3) not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams,
(4) not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit,
(5) not more than 100 milligrams of opium per 100 milliliters or per 100 grams,
(6) not more than 0.5 milligrams of difenoxin and not less than 25 micrograms atropine sulfate per dosage unit.

History Note: Statutory Authority G.S. 90-88(a); Eff. June 30, 1978; Amended Eff. December 1, 1987; April 1, 1983; March 30, 1979.

NORTH CAROLINA ADMINISTRATIVE CODE

EFFECTIVE: November 1, 1987

AGENCY				ACTION TAKEN
DEPARTMENT OF AGRICULTURE				
2	NCAC	34	.0601	Temp. Amended Expires 4-12-88
			.0603	Temp. Amended Expires 4-12-88
			.0605	Temp. Amended Expires 4-12-88
DEPARTMENT OF COMMERCE				
4	NCAC	1G	.0101-.0103	Temp. Adopted Expires 2-13-88
			.0201-.0203	Temp. Adopted Expires 2-13-88
			.0301-.0302	Temp. Adopted Expires 2-13-88
			.0101-.0103	Adopted
			.0201-.0203	Adopted
			.0301-.0302	Adopted
		5A	.0106	Temp. Amended Expires 4-2-88
DEPARTMENT OF HUMAN RESOURCES				
10	NCAC	8A	.1102-.1103	Temp. Amended Expires 4-17-88
		10D	.0906	Amended
		10G	.0107	Temp. Amended Expires 4-28-88
			.0505	Temp. Amended Expires 4-28-88
		14C	.1117	Temp. Amended Expires 4-11-88
		18I	.0120	Temp. Amended Expires 4-11-88
		50B	.0313	Amended
DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT				
15	NCAC	2H	.0102-.0103	Amended
			.0104	Repealed
			.0106	Amended
			.0110	Repealed
			.0111	Amended
			.0114	Amended
			.0118	Amended
			.0201-.0203	Amended
		16C	.0105	Amended
			.0108	Amended

DEPARTMENT OF REVENUE

17	NCAC	5B	.0104	Amended
		5C	.2001-.2002	Amended

DEPARTMENT OF TRANSPORTATION

19A	NCAC	2B	.0221	Amended
		2E	.0219-.0220	Amended
			.0222	Amended

REAL ESTATE LICENSING BOARD

21	NCAC	58A	.0109	Amended
			.0601	Amended
			.0805	Amended
			.0905	Amended
			.1003	Amended
			.1005-.1006	Amended
			.1104	Amended
			.1202	Amended
			.1206	Amended
			.1305	Amended
			.1307	Amended

OFFICE OF STATE PERSONNEL

25	NCAC	1E	.0704-.0705	Adopted
			.0707-.0710	Adopted
		1H	.0602	Amended
			.0605	Amended
			.0616-.0617	Adopted
			.0625-.0628	Adopted
		1L	.0001-.0002	Amended
			.0004-.0005	Amended

OFFICE OF ADMINISTRATIVE HEARINGS

26	NCAC	3	.0002-.0010	Amended
			.0012-.0015	Amended
			.0017-.0022	Amended
			.0028	Amended

TITLE/MAJOR DIVISIONS OF THE NORTH CAROLINA ADMINISTRATIVE CODE

TITLE	DEPARTMENT
1	Administration, Department of
2	Agriculture, Department of
3	Auditor, Department of State
4	Commerce, Department of
5	Corrections, Department of
6	Council of State
7	Cultural Resources, Department
8	Elections, State Board of
9	Governor, Office of the
10	Human Resources, Department of
11	Insurance, Department of
12	Justice, Department of
13	Labor, Department of
14A	Crime Control and Public Safety, Department of
15	Natural Resources and Community Development
16	Education, Department of
17	Revenue, Department of
18	Secretary of State, Department of
19A	Transportation, Department of
20	Treasurer, Department of State
*21	Occupational Licensing Boards
22	Administrative Procedures
23	Community Colleges, Department of
24	Independent Agencies
25	State Personnel, Office of
26	Administrative Hearings, Office of

NOTE: Title 21 contains the chapters of the various occupational licensing boards.

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